



भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित

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सं. 38] नई दिल्ली, सितम्बर 17—सितम्बर 23, 2023, शनिवार/भाद्र 26—आश्विन 1, 1945
No. 38] NEW DELHI, SEPTEMBER 17—SEPTEMBER 23, 2023, SATURDAY/BHADRA 26—ASVINA 1, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1464.—बीमांकक अधिनियम, 2006 (2006 का 35) की धारा 26 की उपधारा- (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री सुरजीत कार्तिकियन, उप सचिव, वित्तीय सेवाएं विभाग के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक श्री मुकेश कुमार बंसल संयुक्त सचिव, वित्तीय सेवाएं विभाग को भारतीय बीमांकक संस्थान परिषद द्वारा गठित अनुशासनात्मक समिति के सदस्य के रूप में नामित करती है।

[फा. सं. A-11011/04/2022-Ins.I]

विनोद कुमार, अवर सचिव

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 14th September, 2023

S.O. 1464.—In exercise of the powers conferred by sub-section (1) of section 26 of the Actuaries Act, 2006 (35 of 2006) the Central Government hereby nominates Shri Mukesh Kumar Bansal, Joint Secretary, Department of Financial Services as member of the Disciplinary Committee constituted by the Council of the Institute of Actuaries of India *vice* Shri Surjith Karthikeyan, Deputy Secretary, Department of Financial Services with immediate effect and until further orders.

[F. No. A-11011/04/2022- Ins.I]

VINOD KUMAR, Under Secy.

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1465.—बीमांकक अधिनियम, 2006 (2006 का 35) की धारा 12 की उप-धारा (2) के खंड (ख)(iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, अध्यक्ष, भारतीय जीवन बीमा निगम और अध्यक्ष, जनरल इंश्योरेंस पब्लिक सेक्टर एसोसिएशन को तत्काल प्रभाव से भारतीय बीमांकक संस्थान परिषद के सदस्यों के रूप में नामित करती है। भारतीय बीमांकक संस्थान परिषद के सदस्यों के रूप में उनका नामांकन संबंधित संगठनों के अध्यक्षों के रूप में उनके कार्यकाल के साथ समाप्त हो जाएगा।

[फा. सं. A-11011/04/2022-बीमा-I]

विनोद कुमार, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1465.—In exercise of the powers conferred by clause (b)(iii) of sub-section (2) of section 12 of the Actuaries Act, 2006 (35 of 2006), the Central Government hereby nominates the Chairperson, Life Insurance Corporation of India and Chairperson, General Insurance Public Sector Association, as members of the Council of the Institute of Actuaries of India with immediate effect. Their nomination as members of the Council of the Institute of Actuaries would be co-terminus with their tenure as Chairpersons of the respective organizations.

[F. No. A-11011/04/2022-Ins.I]

VINOD KUMAR, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 18 सितम्बर, 2023

का.आ. 1466.—केन्द्रीय सरकार ने पेट्रोलियम खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गयी, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस में मंत्रालय की अधिसूचना संख्या का. आ. 1220 दिनांक 25 नवम्बर, 2022 जो भारत के राजपत्र दिनांक 27 नवम्बर-03 दिसम्बर 2022 में प्रकाशित की गयी थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्य प्रदेश राज्य में बीना संस्थापन से पनकी (कानपुर) उत्तर प्रदेश तक पेट्रोलियम उत्पादों के परिवहन के लिए बीना-पनकी पाइपलाइन परियोजना के माध्यम से भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को दिनांक 13 जनवरी 2022 तक उपलब्ध करा दी गयी थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार में उक्त अधिनियम की धारा 6 की उपधारा 1 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की दिनांक से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त होकर भारत पेट्रोलियम कार्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगा और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील – भोगनीपुर

जिला – कानपुर देहात

राज्य – उत्तर प्रदेश

गाँव का नाम	सर्वे नं./गाटा न.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
लवरसी	24	00	08	59
	21	00	08	89
	कुल योग	00	17	48

[फा. सं. आर -11025(15)/3/2019-ओआर-I/ई-29921]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 18th September, 2023

S.O. 1466.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1220 dated 25th November, 2022 issued under subsection (1) of section 3 of the Petroleum & Minerals pipeline (Acquisition of Right of user in Land) Act 1962 (50 of 1962) (hereinafter referred to said Act), published in the Gazette of India Dated 27th November -03th December -2022, the Central Government declared its intention to acquire the right of user in the land the land specified in the schedule appended to that notification for the purpose of laying Bina-Panki pipeline for transportation of Petroleum products from Bina (Sagar, Madhya Pradesh) to Panki (Kanpur, Uttar Pradesh) by Bharat Petroleum Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 13th January, 2023.

And whereas the competent authority has under sub-section (1) of section (6) of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein.

Now, therefore, in the exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired for laying the pipeline ;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting the Central Government, vest on the date of the publication of the declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

Bharat Petroleum Corporation Limited shall be exclusively liable for any compensation in terms of section 10 of the P & MP Act 1962 and no suit, claims or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE**TEHSIL: Bhognipur****District: Kanpur Dehat****State: Uttar Pradesh**

Name of Village	Survey No.	Area		
		Hectare	Are	Sqm.
Lawarsi	24	00	08	59
	21	00	08	89
	TOTAL	00	17	48

[F.No. R-11025(15)/3/2019-OR-I/E-29921]

P. SOMAKUMAR, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1467.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:

1. पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड
765/400 विंध्यांचल पूलिंग सबस्टेशन,
खम्हारिया, तियारा,
सिंगरौली-486885 (म.प्र.)
2. पावर ग्रिड कार्पोरेशन ऑफ इंडिया लिमिटेड
400/220 के.वी. भचारु उपकेंद्र,
निकट गांधीधाम, ग्राम/पोस्ट – भीमासर,
तालुका – अंजार,
जिला – कच्छ-370240 (गुजरात)

[फा. सं. 11011/07/9/2023-हिंदी]

नरेंद्र सिंह, मुख्य अभियंता (प्रभारी रा.भा.)

MINISTRY OF POWER

New Delhi, the 19th September, 2023

S.O. 1467.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the following offices of Power Grid Corporation of India Limited under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi:

1. Power Grid Corporation of India Limited
765/400 Vindhyanchal Pooling Substation,
Khamhariya, Tiara
Singroli-486885 (M.P.)

2 Power Grid Corporation of India Limited
400/220 KV Bhachau Substation,
Near Gandhidham, Vill/PO-Bhimasar, Taluka-Anjar,
Distt.-Kutch-370240 (Gujarat)

[F. No.11011/07/9/2023-Hindi]

NARENDER SINGH, Chief Engineer (In-Charge O.L.)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 11 सितम्बर, 2023

का.आ. 1468.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (71/2001) प्रकाशित करती है।

[सं. एल-12012/514/2000- आई आर (बी-1)]

सलोनी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 11th September, 2023

S.O. 1468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 71/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/514/2000- IR(B-I)]

SALONI, Dy. Director

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present : Sri Irfan Qamar

Presiding Officer

Dated the 31st day of July, 2023

INDUSTRIAL DISPUTE No. 71/2001

Between:

Sri G. Thomas,
C/o G. Yesupadam,
Railway Station Road,
Gudiwada.
Krishna Dist. 521301.
And

... Petitioner

The Assistant General Manager,
State Bank of India,
Zonal Office, RG-II,
Labbipet,
Vijayawada -520 003.

.....Respondent

Appearances:

For the Petitioner : Sri Suman, Advocate

For the Respondent: Sri Y. Ranjith Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-12012/514/2000-IR(B.I) dated 20.6.2001 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the management of State Bank of India, Vijayawada Zone in dismissing services of Shri G. Thomas, Ex.Messenger, is justified? If not, what relief the workman is entitled?”

After receipt of the reference, it was numbered as ID 71/2001 and notices were issued to both the workman and the management.

2. Earlier this reference was answered by this Tribunal by a common award dated 17.5.2005, along with other batch cases, and the claim of the workman was dismissed. Workman challenged said award before the Hon'ble High Court vide WP No. 6470/2006 & batch wherein Hon'ble High Court of A.P., vide decision dated 23.6.2014 set aside the common award dated 17.5.2005 passed by Central Government Industrial Tribunal cum Labour Court, Hyderabad and directed the Respondent bank to reengage the workmen in the positions which they had been occupying prior to termination. Being aggrieved by the said order in WP No. 6470/2006 & batch, Respondent bank preferred appeal WA Nos.1268/2014 and batch cases wherein Division Bench of Hon'ble High Court held:-

- “(1) affirming the impugned common order of the learned single Judge to the “extent it sets aside the common award dated 17.5.2005 of the Industrial Tribunal;
- (2) The further findings and directions issued through the impugned common order are vacated;
- (3) all the matters shall be remitted to the Industrial Tribunal with a direction to dispose of them within an outer limit of five(5) months from the date of receipt of a copy of this order; and,
- (4) the parties to make appearance before the Tribunal on the given date.”

Hon'ble High Court of Andhra Pradesh in WA No.1268/2014 and other batch, held that, “Hearing the learned senior counsel for the SBI and the Learned Senior Counsel for the contesting unofficial respondents, we see that while the learned single Judge was justified in setting aside the award of the Tribunal. This we say for reasons more than one. Firstly, in such matters, claims have to be decided on individual basis, as different persons have different claims as to the length of officiation or discharge of duties and functions; quality of engagement, drawings, accounting of the post for each one of them, who have worked etc. All these issues will not be the same in all the cases. Therefore, each case ought to have been directed to be decided by the Tribunal afresh on individual basis. The second and the most important aspect is the learned single Judge has in one go ordered re-employment of all the workmen. This is not a relief that could have been granted without answering the individual issues; each issue relating to each case could not have been decided by the writ Court within the format of its adjudication procedures and scope. The adjudicating body, which has to do that activity, is the Industrial Tribunal. Therefore, we are of the view that while we would sustain the order of the learned single Judge insofar as it interfered and sets aside the award of the Tribunal, the further findings and directions, issued through the impugned order have to go and the individual cases HCJ&ARR,J WA No. 1268 of 2014 & Batch 6 have to be sent back for consideration of the Tribunal. Such further procedure before the Tribunal will have to be carried forward with the materials already on record and also by affording an opportunity to the persons, who have claims as well as the management to place their rival contentions and further material before the Tribunal//The learned counsel appearing for the workmen are justified in pointing out that enormous delay has already happened and further action by the Tribunal in this line may be expedited.”

Therefore, in compliance with order dated 20.3.2019 of Hon'ble High Court of A.P., Hyderabad passed in WA No.1268/2014, this Industrial Tribunal conducted hearing proceedings in this reference on an individual basis and both parties have been provided ample hearing opportunity during the proceeding.

The factual matrix of the present industrial dispute is as follows:**3. The workman filed his claim statement with the averments in brief as follows:**

The petitioner, Sri G. Thomas was working as a Messenger in the State Bank of India since 1.1.86. He worked until 1.4.1997 when he was stopped from working based on the orders of the respondent panels the Petitioner belongs to backward class. It is submitted that the workman joined in the services of the Management Institution as Messenger on 1986 to rendered unblemished service spreading over a period of about 5 years, and by dint of hard work till his services were terminated by oral orders w.e.f. 1.4.1997. It is submitted that the Management of Bank decided to give a chance to temporarily employed personnel “found suitable for permanent appointment ” by wait-listing them,

by offering permanent appointment or wait-listing till such opportunity arises. It is submitted that on 17.11.1987 a Settlement was reached between All India State Bank of India Staff Federation and the Management of Bank Settlement-1. Under this Settlement, three categories of employees were listed - (a) Those who have completed 240 days in 12 months or less after 1.7.1975; (b) Those who have completed 270 days in any continuous block of 36 calendar months after 1.7.1975; and (c) Those who have completed minimum of 30 days aggregate in a continuous, block of 12 calendar months after 1.7.1975. Persons who satisfy any of the above three categories were to be interviewed by a Selection Committee. The said Selection Committee determine suitability of the said candidate for permanent appointment. Therefore, the bank first had opportunity to notice and observe the work of the workmen, then prescribed certain qualification and from among the candidates satisfying the qualifications. The suitable candidates were enlisted by a Selection Committee Clause (7) of the said agreement provided that the selected candidates would be waitlisted in order of their respective categorization and the select panel be valid upto December 1991 Clause (10) of the Settlement specifically provided that henceforth, "there will be no temporary appointments in the subordinate cadre", except on a restrictive basis in the specified category, "from amongst empanelled candidates as per existing guidelines of the Bank". Clause (1) of the agreement excluded categorized persons who are ineligible. The workman further submitted that consequent upon the said agreement and the Draft, a Notification was issued in the Newspapers. The last date for responding to the advertisement was 30.8.1988. A written examination followed by viva-voce in May 1989 was held. A select panel was prepared. As per clause (7) of the Agreement (Settlement-I) the select panel was to be valid up till December, 1991. It was however, given currency and renewed upto 1997. However, this did not put to an end the legitimate claims of various persons like the workman. It is submitted that the Government of India issued Circular No. F-3/3/104/87-IR, dated 16.8.1990. By and under the said Circular, the Chief Executives of all Public Sector Banks including the management were specifically instructed that until the problem of existing temporary employees is fully resolved, no Bank be permitted to make any temporary appointments. The workman further submits that some of the persons similarly situated like the workman aggrieved by the inaction on the part of the Management Bank in not regularizing their services from out of the select panel and not clearly focusing the vacancy position, filed W.P.No. 4194/97 on the file of the Hon'ble High Court of Andhra Pradesh. It is specifically averred in the said writ petition that the management of the Bank had failed to implement the Settlement and that it violates the various Fundamental rights guaranteed under the Constitution of India. The Hon'ble High Court by an order dated 5.3.1997 directed the Bank to implement the Settlement as amended from time to time. It also directed the Bank to carry out the terms of the Settlement before the expiry of March, 1997. The High Court also recorded a finding that the Bank cannot escape its liability of enforcement of the settlement. In view of the directions granted by the High Court in W.P. No. 4194/97 all candidates whose names appeared in the select panels prepared on the basis of the agreement entered into on 17.11.1987 under which the panel was valid upto December, 1991 and on the basis of a Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 under which the panel was valid upto December, 1999. The other agreement dated 16.7.1988 under which the panel was valid upto 1992 and on the basis of the Settlement dated 27.10.1988 whereby the panels were made alive upto 31.3.1997 were under the bonafide impression that their cases will be considered for regularization and were living on the basis of the said reasonable expectation. Unfortunately, contrary to the directions given by the High Court on 5.3.1997 in WP No 4194/97 and contrary to the settlements entered into between the parties. The Bank issued proceedings dated 25.3.1997, 27.3.1997 and 31.3.1997 instructing the various authorities of the Management not to continue the temporary employees those who are in services of the Bank from 1.4.1997. The said order was followed by the Management. Aggrieved by the said action the workman and similarly situated candidates have filed a writ petition before the Hon'ble High Court by way of writ petition No 9206/97 seeking a declaration that the proceedings issued by the Deputy General Manager and the Assistant General Manager (respondents No.3, 4 and 5) on 25.3.1997, 27.3.1997 and 31.3.1997 as illegal and also non-continuance of the petitioners service by absorbing them in the services of the Bank as violative of Section 2(p) and 18(1) read with Rule 58 of Central Rules and sought for specific direction to the Bank to absorb them in service. The workman further submits that in the counter affidavit filed in the writ petition No. 9206/97, the Bank submitted that it has about 805 Branches in Andhra Pradesh alone. It has stated that due to exigencies of circumstances and on account of the urgent need in its Banks, it employed temporary employees in subordinate cadre. It is pertinent to mention that it does not state the urgent needs or the nature of temporary employees that it had engaged. Enquiry into the same would reveal that the stand taken by the Bank either on the ground of urgent need or of temporary employees is a facade to perpetuate unfair labour practice. It is designed to, on the one hand, keep the employees in the erroneous zone of hope and on the other to ensure that benefits that a model employer will extend under various statutes to its employees is not required to be borne out by the Bank. A reading of the counter affidavit would show that the Bank would opines that being just fair and reasonable are which obviously is reprehensible and is a facet of unfair labour practice. It is further submitted that the Bank refers in its counter affidavit to three Settlements dated 17.11.1987, 16.7.1988 and 27. 10.1988. The Bank in the guise of extending the benefits of the circular of Government dated 16.8.1990 stated in its counter affidavit as follows:

"Government of India. vide its letter dated 16.8.1990, issued guidelines to all the public sector banks with regard to recruitment and absorption of temporary employees in public sector banks. The said guidelines were issued to implement on the lines of the approach paper on the issue provided by a committee constituted in this regard. The

Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper.

The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25-F may be decided by entering into a settlement with the representative union. In respect of temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided and however if the management so desired, they could enter into a conciliation settlement with the representative union. In para 6(h), it is mentioned that only those temporary employees who had put in temporary service of 90 or more days after 1.1.1982 would be eligible for considering under the scheme. Although the Government guidelines envisaged for a settlement in respect of employees who had put in temporary service of 90 or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

As such, it could be seen that the settlements are more beneficial to the temporary employees concerned. The approach paper also specify at para 6 (c) that the Banks would provide one time opportunity to all the temporary employees and for that purpose temporary employees worked in the Bank on or after 1.1.1982 could be considered for re-employment in terms of the scheme. The respondents have gone further wherein even persons working after 1975 were also considered.

As could be seen from the above, there was a genuine effort on the part of the respondent bank to provide permanent employment for as many as possible subject to availability of the vacancies.

It is further submitted that at para (k) of the approach paper, it was made clear that this would be one time exercise in full and final settlement of all the aims and disputes for the past period in respect of temporary workmen covered by the settlement would mean that the Government of India guide lines would cover only those persons who were temporarily employed for the period specified therein and not otherwise. As such, it is submitted that the respondents have not only followed the Government of India guidelines but in fact covered cases of the employees who had worked for less than 90 days. As such, question of violation does not arise and in any case those were only broad guidelines and not directives".

It is submitted that clause (10) of the Settlement it is specifically mentioned that the workmen to be absorbed or appointed in the Bank prohibiting any temporary appointments subsequent to the date of settlement. Even the authorities want to make temporary appointments that should be made only from among the empanelled can be appointed either for temporary vacancy or permanent vacancy except from among the empanelled candidates like the workman and that should be continued till they are absorbed. It is submitted that the respondent Management has indulged in unfair labour practices. The said practice is evident from the actions of the Management Bank. In case of similarly situated workmen like Ch. Survanarayana. B. Venkateswarlu and P. Hussain Saheb who are empanelled by an order dated 3.9.1994 with a direction that their services to be on a very restricted basis against temporary vacancies for not more than 200 days in any continuous block of 12 months so as not to give them statutory right. The caption for such selections has been brought to attention that it was for absorption of temporary employees. That is how the panels for absorption were prepared according to each category 'A', 'B' and 'C'. In view of the regularization of the workmen who served the Bank ranging between 30 days and above has a right for absorption. The same is evident from the proceedings issued by the Management wherein they have specifically mentioned that their cases will be considered for absorption as and when the vacancies arose, till such time they shall be continued on temporary basis. Contrary to the said proceedings, now the Management indulged in unfair labour practices and terminated the service of similarly situated candidates like the workman with effect from 1.4.1997. Hence, the said practice of the Management is highly arbitrary, discriminatory, contrary to their own guidelines and violative of the constitutional provisions which are guaranteed in Chapter-III of the Constitution of India. It is submitted that the workman and other similarly situated workmen who are working as on 31.3.1997 were orally asked not to come to duty from 1.4.1997. In para 3 of the proceedings dated 27.3.1997 it is stated that the panels of temporary employees on daily wages/casual labour maintained by Zonal Offices stand lapsed by 31.3.1997 and reads as follows:

"3. The panels of temporary employees and daily wagers casual labour maintained by Zonal Offices stand lapsed by 31.3. 1997. Please confirm by return of post that the above instructions are meticulously complied with at your branch w.e.f 1.4.1997. Consequent on absorption of temporary employees in permanent cadre, it has been decided by the competent authority that now onwards, no further daily labour or temporary employees/appointments should be resorted to/engaged/employed. This is very important and should be meticulously followed/implemented invariably without fail":

It is submitted that there is no indication in any of the settlements as to who is the competent authority to decide about the validity or the life of the panels or to put an end to it and the so-called DGM is not stated to be the competent authority. It is submitted that the first settlement fixed the validity of the panels till 31.12. 1991 never used the word that it is going to be lapsed on 1.1.1992. Similarly when the validity was extended in the subsequent settlements to be operated at least till 31.3.1997. Sometimes even without the extension of the panels would lapse after 31.3.1997, it is strange as to how the so-called competent authority or the authorities of the bank thought or decided to lapse them from 1.4.1997. It is submitted that the balance of unabsorbed candidates like the workman and the similarly situated

candidates cannot more than 10% of the total empanelled candidates. Therefore, unless the Bank is able to demonstrate that the balance of unabsorbed candidates as on 31.3.1997 was only 10% of the total empanelled candidates, the theory of the lists becoming lapsed leaving no scope for absorption becomes an ingenious theory. It can be shown out of 6,932 empanelled candidates, 3,178 were not absorbed and it should have been more than 10%. It is submitted that though an empanelled list was pending for absorption of such candidates on the date of first settlement, new lists of empanelled candidates in three categories were prepared by virtue of the subsequent settlements which were sought to be implemented with all seriousness. Although such panels could not be fully exhausted by the date of the last settlement dated 26.4.1991, the existing panels were enlarged by allowing others also to join such panels with supplementary panels to be used after the earlier panels of temporary employees have been exhausted. This will only mean that the bank was capable of absorbing all the candidates in the panels which were in existence as on 26.4.1991. It is submitted that the Banks were directed that recruitment of all temporary employees in the Clerical or Subordinate cadres shall be stopped forthwith. In pursuance of such directions an advertisement was issued in the local Newspapers as per the settlements and based upon that panels were prepared after an interview. Two salient features of the instructions of the Government are that there must be one time and whole time settlement to consider the absorption of such temporary employees in the existing panels and till then no Bank will be permitted to make any temporary appointment. It is submitted that the action of termination such employees like the workman by virtue of impugned proceedings without implementing the settlements would be illegal and it would be denial of unfair labour practice within the meaning of Section 2(a) of Industrial Disputes Act which cannot be allowed to be perpetuated. It is submitted that discontinuance of workmen after 31.3.1997 to serve in the Bank in any capacity amounts to retrenchment. It could not have done without notice and it violates Section 25(ff) of I.D. Act and the said action is violative of principles of natural justice guaranteed under Chapter-III of the Constitution of India. Therefore, the action of D.G.M. the so-called competent authority who has passed the impugned proceedings amounts to retrenchment of the workman without one month's notice or payment in lieu of such notice, wages for the period of notice. Thus the impugned proceedings are issued in colourable exercise of power, without jurisdiction, arbitrary, illegal and are therefore liable to be quashed. The workman submits that though the respondent management informed in its letter dated 10.10.1990, the Central Government stating that they are implementing the instructions issued in proceedings dated 16.8.1990. In fact the management failed to implement the same for the reasons best known to them. It is further submitted that the M.O.U. dated 27.2.1997 said to have been entered into between the parties does not bind the workmen as it has no legal entity. However, the said M.O.U. has not published anywhere to brought to the notice of the workmen whose rights are being affected. In fact, when settlements were arrived at in the year 1987, the Central Government directed the respondent management to give wide publicity by its letter dated 30.11.1987 and 29.12.1987. Accordingly those settlements were brought to the notice of workmen by way of advertisement. The said process was not followed while entering into M.O.U. dated 27.2.1997, through which the affected parties like the workman was kept in dark about the lapse of the selected panels. It is further submitted that the management has failed to implement the selected, panels during its valid tenure. The management adopted the back door methods contrary to the settlements and filled up the vacancies. The same is evident from the proceedings dated 18.11.1993, a copy of the same is filed in the material papers and the same may be read as part of the Claim Petition. It is submitted that the management adhere to the procedure envisaged by the Central Government in its instructions dated 16.8.1990 in the year 1995. The same was not followed in the year 1997 despite there being vacancies. The management has followed the procedure of calling candidates through Employment Exchange instead of giving chance to the empanelled candidates like the workman herein. It is pertinent to mention here that the respondent management sent call letters to the similarly situated candidates like the workman in the month of June, 1997, subsequent to the passing of impugned termination orders. After knowing the fact that they are litigating the issue by way of dispute, the management has refused to engage those candidates, copies of call letters issued are filed herein along with Claim Petition. The workman reiterates that the panels are meant for absorption but not for termination. In view of the same a duty is cast upon the respondent management to engage the empanelled candidates like the workman even in temporary vacancies till they are absorbed permanently in regular vacancies. The workman submitted that ever since the date of his removal from service, he remained unemployed, as he could not secure any alternative employment inspite of his best efforts. Thus, the action of the respondent Management in terminating the services of the workman by oral order with effect from 31.3.1997 is unjust, illegal, opposed to principles of natural justice besides being violative of various provisions of I.D. Act and the same is liable to be set aside.

4. The Respondents filed counter refuting the averments made by the Petitioner in the claim petition, and the contention of the Respondent in brief runs as follows:

The respondent submits that the claim petition is not valid and goes against the Industrial Disputes Act, 1947. They deny the allegations made in the claim statement and demand proof of those allegations. The respondent bank used to hire temporary subordinate staff to cope with staff shortages and government-imposed restrictions. The All India State Bank of India Staff Federation advocated for temporary employees with less than 240 days of service to be considered for permanent appointments. Discussions were held between the federation and the bank, leading to a settlement that aimed to provide fair treatment to temporary employees. The settlement includes various factors, some of which are relevant to the current application.

5. On 17.11.1987, an agreement was signed between the Federation and the management Bank under Section 2(p) read with Section 18(1) of the ID Act, 1947 read with Rule 58 of Industrial Disputes (Central) Rules, 1967.

As per settlement the temporary employees were categorized into three categories, detailed as under:

i) Category 'A':

Those, who have completed 240 days of temporary service in 12 calendar months or less after 01.07.1975.

ii) Category 'B':

Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.

iii) Category 'c':

Those, who have completed a minimum of 30 days aggregate temporary service in any calendar year after 01.07.1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01. 07.1975.

In the initial settlement, it was agreed that temporary employees would be given an opportunity for permanent appointments in the bank for vacancies expected to arise from 1987 to 1991. However, on July 16, 1988, a subsequent agreement was reached between the Federation and the bank, extending the consideration period for vacancies from 1987 to 1992. This agreement was signed under relevant sections of the Industrial Disputes Act and its associated rules, and it will be referred to as the second settlement.

6. Later, on October 27, 1988, another agreement, referred to as the third settlement, was reached between the Federation and the bank. It introduced a new clause, 1-A, after clause 1 in the initial settlement. This clause stated that individuals engaged on a casual basis to fill in for leave or casual vacancies in positions like messengers, farrashes, cash coolies, water boys, sweepers, etc., would also be considered for permanent appointments in the bank for vacancies expected to arise from 1988 to 1992. Therefore, not only temporary employees receiving scale wages but also casual or daily wagers would be eligible for permanent absorption into the bank.

7. Government of India vide its letter dated 16.8.1990 issued guidelines to all the public sector banks with regard to the absorption of temporary employees in public sector banks. The said guidelines were issued to implement along the lines of the approach paper on the issue provided by a committee constituted in this regard. The Government of India guidelines made it clear that all the public sector banks may follow the provisions laid down in the approach paper. The approach paper specified that the cases of temporary employees who had put in not less than 240 days of temporary service in 12 consecutive months and who are entitled to benefit of Section 25F of the Industrial Disputes Act might be decided by entering into a settlement with the representative union. With respect to temporary employees who had put in less than 240 days of service in 12 consecutive months or less, a settlement could be avoided, however, if the Management so desired they could enter into a conciliation settlement with the representative union. In para 6(h) it is mentioned that only those temporary employees who had put in temporary service of 90 days or more days after 1.1.82 would be eligible for consideration under the scheme. Although the Government guidelines envisaged a settlement in respect of temporary employees who had put in temporary service of 90 days or more days, the Bank by way of further concession entered into settlements even in respect of those who had put in less than 90 days.

8. According to the settlement dated November 17, 1987, temporary employees who had worked with the bank from July 1, 1975, to December 31, 1987, were given an opportunity to be considered for permanent appointment against future vacancies. The eligible candidates were categorized into three groups based on their completed days of service: Category A (240 days), Category B (270 days), and Category C (70 days). The waitlisted candidates' panel would remain valid until December 31, 1991. Through a modification in the second settlement on July 16, 1988, the qualifying service date was extended to July 31, 1988, instead of December 31, 1987. An advertisement was issued on August 1, 1988, calling for applications from temporary employees who received scale wages, region-wise, to fill the vacancies in different regions.

9. The third settlement on October 27, 1988, was a result of the union's advocacy for casual or daily wage workers. It was decided to consider all candidates for vacancies likely to arise between 1988 and 1992. While the number of vacancies in some regions exceeded the waitlisted temporary employees, the Chennai circle was an exception as there were more waitlisted temporary candidates than available vacancies.

10. On January 9, 1991, the fourth settlement was reached, extending the validity of the panel from 1991 to 1994. After December 31, 1994, the remaining candidates on the panel would have no claim. Following the third settlement, the bank issued an advertisement on May 1, 1991, inviting applications from casual/daily wage workers for consideration for permanent appointment. This created concerns among temporary employees who felt threatened if a common list was created. However, if the casual daily wagers were placed at the end of the list, there would have been no cause for concern.

11. In response, the SBI Employees Union filed a writ petition (Writ Petition No.7872 of 1991) seeking relief to operate the waitlist based on the August 1, 1988, advertisement and not to operate any list based on the May 1, 1991, advertisement. An interim stay was granted regarding the latter aspect, which lasted for more than eight years until July 23, 1999. Consequently, no list of casual posts/daily wage workers could have been drawn up during this period, and the list of temporary employees should have been in operation. The writ petition was finally disposed of on July 23, 1999, by which time the relief sought in the petition would have been implemented.

12. The 5th settlement was arrived at on 30th July 1996 requiring the panel to be kept alive up to 31st March, 1997 and this was in respect of the vacancies which became available up to 31st December 1994.

13. The respondent submits that the petitioner has not worked for more days than those who have been absorbed into the vacancies as agreed upon. They deny the petitioner's claim of continuous years of work and state that the petitioner, who has worked for less than 240 days in a 12-month period from 1975 to 1988, has no right to seek absorption in the bank except under the settlements. The case of the petitioner has already been considered under several settlements, and therefore, all the provisions and terms of those settlements are binding on them. The respondent submits that the applicant and other ex-temporary employees do not have an independent right, and their claims are based solely on the settlements. The preparation and maintenance of panels are in compliance with the agreed terms of the settlements. The panels, including the applicant, have ceased to exist after the designated period, and the remaining candidates have no right or claim against the bank. The settlements explicitly stated that the panels would not be kept alive until all candidates were absorbed. The applicant is barred from questioning the validity of the settlements after accepting the benefits and empanelment. According to the settlement dated January 9, 1991, vacancies until December 1994 were to be filled based on seniority from the 1989 panel. After that, the panel lapsed, and the remaining candidates have no claim for permanent absorption. The same applies to the 1992 panel. The respondent submits that only the temporary service rendered from January 1, 1975, to July 31, 1988, is considered for permanent absorption, and days worked after that period are not counted since the panels had already lapsed. The bank never promised to absorb all candidates in the panel, as the advertisement clearly stated that candidates would be considered for absorption in vacancies until 1992. According to the respondent, the vacancies were identified and the ex-temporary employees in the panels were absorbed based on seniority, as per the settlements between the Federation and the management Bank. The respondent submits that mere empanelment does not guarantee absorption for the petitioners, and keeping the panels alive after March 31, 1997, goes against the settlements. The respondent submits that the settlements between the State Bank of India and the All India State Bank of India Staff Federation have the force of law and are binding on the parties. The petitioners themselves have acted upon the settlements by being on the panel, and therefore, they are bound by the terms of the settlements. The maintenance of panels is in line with the agreed terms of the settlements, and the Bank has strictly adhered to these terms. The present application is based solely on the settlements and not on any independent right or provision of the Industrial Disputes Act. The panels under the settlements had a specific time limit, and this term cannot be modified in any legal proceedings. Therefore, those temporary employees who could not be accommodated due to lack of vacancies have no further rights for regularization under the settlements or otherwise. The bank has fully complied with the settlements, and the mentioned circulars and letters were merely directives to discontinue the practice of engaging temporary employees, which was also a term of the settlements. It is submitted that some writs were filed by certain temporary employees who were also called for interview and empanelled. In writ petition No.12964/94, the Hon'ble High Court went into similar contentions in detail and the Learned Judge also referred to the settlements and subsequently held that the Petitioners therein were not entitled to any relief and the only relief they can claim is enforcement of settlements, if there is any right flowing from it or it has been violated. The relevant operative portion of the said judgement is as follows:

"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not, at all the case of the petitioner that any of the terms of the settlement has been violated by the bank's management. If the Petitioner had worked in the bank on part-time basis before 31.5.94, that itself would not vest in him a right to claim that his services should be regularized on permanent basis against a full time cadre post. The claim put forth by the Petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the Petitioner to claim any right which flows from the settlement between the union and the bank management. As already pointed out that it is not the grievance of the Petitioner that some right which has flown from the settlement in favour of the Petitioner has been denied by the bank management. Therefore, I domestic enquiry not find any ground, let alone substantial ground, to grant the kind of relief sought for by the Petitioner. Writ petition fails and is accordingly dismissed. No costs."

The respondent submits that the settlements clearly state that the panels would cease to exist at the end of the designated period, and there would be no further temporary or casual recruitment. The relief sought by the applicant, if granted, would essentially make temporary employment permanent through a backdoor entry, which goes against the settlements, as well as Articles 14 and 16 of the Constitution. It would also deprive rightful claimants of their chances through proper recruitment procedures. The settlements were intended as a one-time measure to end the practice of temporary engagement, and the rights of the applicant were determined by these settlements. Therefore,

there is no legitimate expectation or estoppel, as contractual rights arising from an industrial settlement take precedence. The bank did not make any statement or representation guaranteeing permanent appointment, as clearly stated in the advertisement issued pursuant to the first settlement, which outlined the process of being considered for permanent appointment and being wait-listed based on suitability and subject to vacancies, with the waitlist valid until 1991.

14. The ex-temporary employees in the panels filed a writ petition before the High Court of Andhra Pradesh, which was initially allowed by the Single Judge. However, the bank appealed this decision, and the Division Bench of the High Court set aside the Single Judge's order. The ex-temporary employees then filed a Special Leave Petition before the Supreme Court, which was also dismissed. Therefore, the reference to the Single Judge's judgment in the writ petition is irrelevant, as it has been overturned. The petitioner has not worked for the required 240 days in any preceding 12-month period, so the reference to Section 25F of the Industrial Disputes Act is not relevant. The petitioners' claim regarding their service and educational qualifications require strict proof. The allegation of termination is incorrect, as the vacancies were filled based on seniority, and the non-engagement of the petitioner does not constitute termination. Temporary employees are subject to the availability of work, and there is no obligation to continue their employment when there is no work. The bank has not engaged in unfair labour practices, and the settlements are binding on the petitioner, having been fully implemented without violating any provisions of the Industrial Disputes Act. The issue has been addressed in various judgments of the Supreme Court and High Courts, and the petitioner's industrial dispute lacks merit and should be dismissed.

15. The Petitioner in support of his claim examined himself as WW1 and also filed photocopies of 6 documents which were marked as Ex.W1 to W6. Ex.W1 is the news paper advertisement, Ex.W2 is interview call letter, Ex.W3 is panel list, W4 is service certificate, Ex.W5 is service certificate and Ex.W6 is circular. Ex.W7 is another circular dated 14.7.1999. On the other hand, Respondent filed photocopies of 12 documents which were marked as Ex.M1 to M12. Ex.M1 to M4 are settlements between Respondent and All India State Bank of India Staff Federation. Ex.M5 is conciliation proceedings. Ex.M6 is another settlement. Ex.M7 is Memorandum of understanding. Ex.M8 is statement giving the particulars of 1989 messenger panel. Ex.M9 is statement of 1989 non-messenger panel. Ex.M10 is statement of 1992 panel. Ex.M11 is order of Hon'ble High Court in WA No.86/98 and Ex.M12 is order in SLP No.11886-11888.

16. On the basis of the pleadings and the submissions made by the parties, following points emerge for determination:-

- I. Whether the action of the Respondent Management in terminating the services of the workman, Sri G. Thomas, Ex-Messenger w.e.f, 31.03.1997 is legal and justified?
- II. Whether the workman in terms of settlements arrived at between the Respondent Bank Management and the Federation of Employees is entitled for regularization/absorption in the service of Bank?
- III. To what relief, the workman is entitled for?

Findings:

17. **Points No. I & II:-** The workman claims that he had been working with the Respondent Bank since 1986 on temporary basis. In the year 1988, Respondent issued advertisement for calling applications from the then temporary subordinate employees for the post of messenger. The workman moved application and he received interview call letter from bank to attend the interview, workman attended interview and Respondent Bank prepared a panel list of all the successful candidates in the year 1991 and the Petitioner's name appeared also in the panel list. The Respondent Bank utilized the services of the empanelled employees and workman on temporary basis till March 1997 and some of the empanelled employees were given permanent appointment basing on the number of days of service put up by them. Thereafter, the Respondent No.2 issued a Letter dated 25.03.1997 directing all Branch Managers not to utilize the services of the empanelled Messenger and to declare that the panel list of 1991 will lapse by 31.03.1997. Therefore, all the remaining empanelled employees as per the panel list of 1999, were denied employment after 31.03.1997. It is further submitted by the workman that Respondent No.2 issued another advertisement in the year 1991 calling application for interview from the then temporary working messengers and selected some of the candidates among the applicants and prepared another panel list of 80 employees. The said panels lapsed in March, 1997. However, surprisingly all the temporary employees as per Second panel List of 1993 were given permanent appointment and that order was issued just 15 days before the lapse of the panel List. It is further submitted that the empanelled employees of Second panel List of 1993 were juniors to the temporary employees of first panel list of 1991 in terms of number of days of service put up by them. Therefore, the act of Respondent Bank appointing the junior employees of second panel list ignoring the senior employees of the first panel list of 1991 is discriminatory, arbitrary and illegal which goes to indicate that the Respondent Bank chose to favour the employees of second panel List of 1993 for the reason best known to the Respondent Bank.

18. On the other hand, the Respondent countered the allegations made by the workman and submitted that the persons who do not have the requisite number of days of service as per the settlement, could not be considered for permanent absorption. It is contended that the bank had never promised that all the candidates in the panel will be absorbed. In the advertisement itself it was made clear that the candidate will be considered for the absorption in the vacancies that may arise up to 1992. Since the panel list had already lapsed on 31.03.1997, and the vacancies were already filled up by absorbing the temporary attendants and daily wagers/casual employees respectively in order of their seniority in the empanelment, therefore, the consideration of engaging their services including workman could not have arisen. Therefore, panel list of daily wagers prepared in the year 1992 was used for filling vacancies which arose up to end of 1994 and the said panel list automatically lapsed after the filling of the aforesaid vacancies.

19. In support of his claim, the workman has examined himself as WW1 and in chief examination, he reiterated his claim as made in his petition. Further he stated that Ex. W3 is the document referred List of empanelment Ex. W4 and W5 are service certificates according to which the workman has worked for total number of 246 days. In cross examination, WW1 states that he was not given any posting order at the time of joining the service nor at any other time. On the oral instruction of Branch Manager, he worked in the Branch. He further admitted in the cross examination, "I was appointed as temporary messenger on 1.1.86 for 80 days. I was not sponsored by any employment exchange. I did not undergo the regular selection process before my appointment as a temporary messenger. I was called for interview and my name was included in the panel of temporary messengers. The panel was prepared basing on the no. of days of service put in by the temporary employees. Some of the employees whose names were included in the panel were given regular employment in the bank in order of their seniority in the panel. I was not given any letter stating that I was terminated from service. I did not give any letter stating that I was terminated from service and that I want reinstatement into service. I did not work for 240 days in any year in my entire service in the bank. It is not true to say that I was terminated from service and that I am not getting the work as the vacancies were filled up by the bank with the temporary employees from the panel. I am not having any document to show that any of my juniors are continuing in service. I am not having any document to show that any person who had worked for less no. of days than me was given regular appointment in the bank." On the other hand, the Respondent has examined MW1 and in his chief examination the witness had stated that the petitioner was included in the panel list 1991 however, as the existing vacancies at that time were exhausted, his turn didn't come, and he could not be given permanent employment in the bank. All the appointments were made strictly in accordance with the settlement between the SBI management and the SBI Staff Federation. The witness has also stated that as per the seniority was determined on the basis of number of days as temporary service put in by the employee in the given period and all the appointments were made as per seniority. Witness states that the petitioner had not worked for 240 days in any year in his entire temporary service in the bank. The petitioner and other temporary employees were not terminated from service by the Bank. The vacancies were filled up on regular basis with the temporary employees from the panel list and which were expired in terms of settlement on 31.03.1997 and there were no vacancies to absorb rest of the empanelled employees.

20. In view of the above statement of witness, it manifests that, the workman did not work for 240 days continuously in any year in the service. Therefore, the protection of the provisions under Section 25 (f) of Industrial Disputes Act, 1947 against the retrenchment is not available to the workman. The initial burden of proof was on the workman to show that he had completed 240 days of continuous service in the employment of bank from the date just preceding date of termination, but he failed to discharge his burden of proof.

In the case of **Mohan Lal v. Management BEL 1981 SCC 225**, the Hon'ble Apex Court have held that:

"Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."

"Clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine

first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

Therefore, in view of the above law, the claim of the workman that Respondent has not exhausted procedure before his retrenchment from service is not tenable.

21. Further, the workman claimed that his name was included in the empanelment for regularization on temporary posts after holding interview in 1989, but he was not regularized in the service and the temporary employees junior to him in service were appointed on permanent posts from the empanelment. However, WW1 in cross-examinations has admitted that he was not sponsored by the Employment Exchange. He could not indicate any instance of regularizing the temporary employee junior to him from the panel. Since, as per settlements arrived at between the Federation of Bank Employees and Respondent Bank Management, the vacancies for the empanelled employees of 1989 were available which would arise upto December, 1994 and those vacancies were absorbed from the panel list 1991 in order of seniority. Therefore, due to non-availability of the vacancies, and the workman not having the requisite number of days in service as compared to the other employees who were ranked senior to him in the list, could not be regularized. Therefore, workman being junior to other workmen in the panel, could not be granted regularization/absorption as a permanent employee in the Bank. It is admitted by the workman that the panel list was prepared in terms of settlement arrived at between the State Bank Management and Federation of State Bank Management Employees Association and therefore, same is binding on both parties under the provision of Section 18 (1) of the Industrial Disputes Act. Therefore, in view of the above, settlements and awards is also binding on the workman.

In the case of National Engineers Industries v. St. of Rajasthan Civil Appeal No. 16832/1996 dated 01.12.1999, three judges bench of Hon'ble Apex Court have held:-

"In Ram Pukar Singh and Ors. Vs. Heavy Engineering Corporation and Ors. [1994] 6 SCC 145 this Court said that a settlement arrived at between the management and the sole recognised union of workmen under section 12(3) read with section 18 of the Act would be binding on all the workmen whether members of the union or not."

Therefore, mere enlisting the name of workman, a in the list of employees for regularization, it does not entitle workman for absorption in the Bank's service as a permanent employee unless the vacancy is available at the stage of his seniority. As per the settlement, the panel lists expired on 31.03.1997, and thereafter, the life of the panel list could not be extended. In the **Writ Petition No. 12964/1994, the Hon'ble High Court observed:-**

"It is needless to state that the settlement arrived at between the All India State Bank of India Staff Federation which is the majority union and the bank management is binding on the petitioners also. It is not at all the case of the petitioner that any of the terms of the settlement has been violated by the Bank's Management. If the petitioner had worked in the Bank on Part-time basis before 31.5.94, that itself would not vest in his a right to claim that his services should be regularised on permanent basis against a full time cadre post. The claim put forth by the petitioner in the present petition is therefore misconceived and not tenable. However, it is open to the petitioner to claim any right which flows from the settlement between the union and the Bank Management. As already pointed out that it is not the grievance of the petitioner that some right which has flown from the settlement in favour of the petitioner has been denied by the Bank Management. Therefore, I do not find any ground, let alone substantial ground, to grant the kind of relief sought for by the petitioner. Writ Petition fails and is accordingly dismissed. No costs."

Therefore, the claim of workman in the present matter can not be considered beyond the terms and conditions of aforesaid settlement between Bank Management and Federation of employees.

Further, in the case of State of U.P. v. Harish Chandra AIR 1996 SC 2173, the Hon'ble Apex Court have held:-

"Notwithstanding the aforesaid Statutory Rule and without applying the mind to the aforesaid Rule, the High Court relying upon some earlier decisions of the Court came to hold that the list does not expire after a period of one year which on the face of it is erroneous. Further question that arises in this context is whether the High Court was justified in issuing the mandamus to the appellant to make recruitment of the Writ Petitioners. Under the Constitution a mandamus can be issued by the Court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and said right was subsisting on the date of the petition. The duty that may be enjoined by mandamus may be one imposed by the Constitution or a Statute or by Rules or orders having the force of law. But no mandamus can be issued to direct the Government to refrain from enforcing the provisions of law or to do something which is contrary to law. This being the position and in view of the Statutory rule contained in Rule 26 of the Recruitment Rules we really fail to understand how the High Court could issue the impugned direction to recruit the respondents who were included in the select list prepared on 4.4.87 and the list no longer survived after one year and the rights, if any, of persons included in the list did not subsist."

Similarly in the case of Syndicate Bank and other Vs. Shankar Paul AIR 1997 SC 3091, it was held :

"Temporary were made from the empanel of eligible candidates prepared by calling names from employment exchange, the empanel was valid for only year. When the said employee claimed permanent absorption in service, the Apex Court has held that, whatever conditions regarding these empanelled candidates had they come an end on the expiry of one year."

In the present matter also, since the panel list 1989, which was prepared for the vacancies arising up to December 1994, its life expired on 31.03.1997, and it could not be extended after the said expiry date. Further, the panel list exhausted due to from the vacancies available upto 1994 with the absorption of empanelled senior employees. Thus,

the workman being junior in that panel list seniority could not get regularization / absorption in the service. Although numerous pleas have been taken by the Petitioner in his claim statement, but as per settled law, here, we are confined to the reference through which the dispute of dismissal of workman has been referred to the Tribunal for adjudication. In view of fore gone discussion, workman failed to prove his claim as alleged in his petition against the dismissal from service as well as claim for regularization and as such, the action of the Respondent bank in dismissing the services of Sri G. Thomas, Ex.Messenger by way of oral orders w.e.f. 31.3.1997 is justified.

Points No. I & II is answered accordingly.

22. Point No. III:-

In view of the findings given in Points No. I & II, the claim of the workman against the dismissal order and for regularization of his service in Respondent Bank is unfounded and devoid of merits. Therefore, the workman is not entitled for any relief of reinstatement or regularization in the employment of Respondent Bank. Hence, his claim petition is liable to be dismissed.

ORDER

In view of the fore gone discussion, it is held that the action of the Respondent bank in dismissing the services of Sri G. Thomas, Ex. Messenger by way of oral orders w.e.f. 31.3.1997 is justified. Hence, the Petitioner is not entitled for any relief as prayed for and consequently petition stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 31st day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

Witnesses examined for the
Respondent

WW1: Sri G. Thomas

MW1: Sri Rupakula Prakash Babu

Documents marked for the Petitioner

Ex.W1: Photocopy of newspaper notification
Ex.W2: Photocopy of interview call letter 27.7.1989
Ex.W3: Photocopy of panel list
Ex.W4: Photocopy of service certificate dt. 9.2.98
Ex.W5: Photocopy of service certificate
Ex.W6: Photocopy of Circular
Ex.W7: Photocopy of circular dated 14.7.1999

Documents marked for the Respondent

Ex.M1: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.17.11.87
Ex.M2: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.16.7.88
Ex.M3: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.27.10.1988
Ex.M4: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.9.1.1991
Ex.M5: Photocopy of conciliation proceedings before the Regional Labour Commissioner(C) dt.9.6.1995

- Ex.M6: Photocopy of settlement between Respondent and All India State Bank of India Staff Federation dt.30.7.1996
- Ex.M7: Photocopy of Memorandum of understanding dt. 27.1.1997
- Ex.M8: Photocopy of statements giving the particulars of 1989 messenger panel.
- Ex.M9: Photocopy of statement of 1989 Non0messenger panel
- Ex.M10: Photocopy of statement of 1992 panel
- Ex.M11: Photocopy of order of Hon'ble High Court in WA No.86/98 dt. 1.5.98
- Ex.M12: Photocopy of order in SLP No.11886-11888 of 1998 dated 10.8.98

नई दिल्ली, 12 सितम्बर, 2023

कां.आ. 1469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 95/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/07/2023 को प्राप्त हुआ था।

[सं. एल-22012/26/2006-आई.आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID.No. 95/2006**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.L.** and their workmen, received by the Central Government on **20/07/2023**.

[No. L-22012/26/2006 – IR (CM-II)]

MANIKANDAN. N., Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present : Sri Irfan Qamar

Presiding Officer

Dated the 9th day of June, 2023

INDUSTRIAL DISPUTE No. 95/2006

Between:

The Branch Secretary,

(Sri N. Kistaiah),

Singareni Collieries Workers Union (AITUC)

Mandamarri Branch,

Mandamarri – 504321.

.....Petitioner

AND

The General Manager,

M/s. Singareni Collieries Company Ltd.,

Mandamarri division,

Mandamarri – 504321.

....Respondent

Appearances:

For the Petitioner :

M/s. G. Vidya Sagar, K. Udaya Sri & P.Sudheer Rao, Advocate

For the Respondent :

M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L- 22012/26/2006-IR(CM-II) dated 30.10.2006 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 requiring this forum to decide the question:

SCHEDULE

“Whether the action of the management of M/s. Singareni Collieries Company Ltd., in reverting to lower stage by two SPRAs (Special Piece rate Allowance) in respect of Sri Ankathi Sailoo is legal and justified? If not, to what relief is the workman?”

On receipt of the reference this Tribunal has registered and numbered the reference as I.D. No.95/2006 and issued notices to both the workman and the management. They both appeared before the court and engaged their respective counsels with the leave of the court and consent of either party.

2. The workman filed his claim statement with the averments in brief as follows:

It is submitted that workman involved in the present dispute is working in the respondent management since 1986, the respondent/management has appreciated the workman number of times based on his best performance. It is submitted that workman involved in the present dispute is elected as a Organizing Secretary of Singareni Company Collieries Workers Union in the year 1998 and also he was committee member of Mine Committee. It is submitted that while workman discharging his duties as a Coal Filler at KK-5 Incline, he made representation to the respondent/management along with union office bearers with regard to increase of height at 42 panel working place KK-5 Incline, instead of considering the request of the workman the respondent/management started victimization who were participated in the union activities by way of issuance of charge memo and charge sheets falsely implicating the workmen into the alleged incident. It is submitted that on 23/09/2000 in 1st shift Coal Fillers were engaged in 42 panel, KK-5 Incline, are not able to discharge their duties as per norms prescribed by the management due to less height of 42 panel. They have filled only 1/2 tub each with great difficulty, the 1st shift coal filler informed to the 2nd shift coal fillers with regard to same problem on 23/09/2000. The coal fillers of Gang No. 17,18,19 and 20 requested to distribute them in other working places instead of 42 panel, KK-5 incline working place in 2nd shift. The workmen's request was not considered by the respondent/management, and advised the workmen to come for discussion at the office. It is submitted that coal fillers of Gang No.s 17,18,19 & 20 who were attended duties in 2nd shift on 23/09/2000, being on 24/09/2000 is play day on 25/09/2000 the coal fillers of Gang No. 17,18,19 & 20 attended their duties in 1st shift, already the said workmen represented before the respondent/management that due to less height they are not in a position to discharge their duties as instructed by the official of the company, instead of considering the same again the respondent/management insisted the workmen to do work at same place i.e., 42 panel, KK-5 incline. It is submitted that instead of considering the requests of the workman as well as the recognized union the respondent/management has issued charge sheet Dt. 19/10/2000 to the workman involved in the present dispute by name Sri A.Sailoo, Coal Filler based on false reports of the company officials alleging that he violated the Company Standing Order No's 25 (11) and 25 (16) on 23/09/2000 in 2nd shift and on 25/09/2000 in 1st shift. The allegations made against the workman are false and incorrect, the workman involved in the present dispute is a Mine Committee Member of recognized Union. After receipt of the same workman has submitted his detailed explanation denying the charges leveled against him. He clearly stated in his explanation that he was Organizing secretary of recognized union and he has been discharging his duties at 42 panel with less height of working place from the last 23 days, they representing with respondent/management with regard to said problem at working place. On 23/09/2000 in 1st shift the respondent/management kept one gang instead of four gangs in 42 panel. The workmen attended the duties at 1st shift with great difficulty and filled 1/2 tub each. On the same day in 2nd shift due to same problem they requested with the respondent/management to provide alternate working place, but the respondent/management has not considered the same, and also stated that due to less height only they could not perform their regular duties, and requested with respondent/management officials to drop all further proceedings in the matter. Instead of considering the explanation submitted by the workman the respondent has ordered an enquiry into the alleged incident. The action on part of the respondent/management in not considering the request of the petitioner union as well as the workman involved in the present dispute is illegal arbitrary and unjust. It is submitted that in the enquiry during the course of cross examination of MW1, MW2 & MW3 they clearly admitted that they have discussed the problem of less height in 42 panel with representatives of the SCW Union as well as coal fillers who were working at 42 panel KK 5 Incline, it shows that there was a problem at the time of discharging the duties due to less height. Hence, there was no lapse on part of the workman while discharging his duties on 23.9.2000 and 25.9.2000. It is submitted that the delinquent Mr. Sailu deposed in the enquiry that he has been discharging his duties since 1986 in the Respondent management without any remarks and he was the organizing secretary of SCW Union (AITUC) and represented number of problems with respondent/management officials from time to time and brought amicable solutions by fairly discussing with officials of the company. He further stated that due to less height at 42 panel the workman facing problems at the time of discharging their duties, on 23/09/2000 during the 2nd shift he along with other coal fillers of Gang 17 to 20 requested for alternate working places expressing difficulty to work at 42 panel was discussed with the officials. On 23/09/2000 during 3rd shift only Badli Coal Fillers were deployed in 42 panel whereas Coal Fillers of 17 to 20

gangs were not posted in 42 panel. On 25/09/2000 the workmen (Coal Fillers) were represented the Under Manager with regard to problems facing by the coal fillers. Instead of considering the same the respondent/management has declared lay off and a notice was displayed on notice board and the respondent/management has not accepted the request of the coal fillers. He further stated that on 26/09/2000 in 1st shift the General Manager visited the working place at 42 panel and ordered to increase the height of the 42 panel working place. It is submitted that Sri. P. Sambaiah WW1 deposed in the enquiry that there is problem of less height in working places in 42 panel of coal fillers of Gang No. 17 to 20 and they are unable to fill the tubs and facing lot of difficulty due to less height. On 23/09/2000 due to said problem only the workman have filled only 1/2 tub each, and requested in 2nd shift to change their working place and same was not considered by the respondent/management. All the workmen attended their duties. Sri. P. Sambaiah further stated that the office bearers of the petitioner union and well as the coal fillers discussing the issue before the officials of the respondent/management on 25/09/2000 all of sudden the respondent/management displayed lock out notice on Notice Board in 1st Shift much before scheduled time of 1st Shift, and also stated that the workman involved in the present dispute by name Mr. Sailoo did not play any active role in guiding the Workmen to go on strike. It is submitted that the Respondent management himself declared lay off in the 1st shift and the same was displayed on Notice Board, without consulting workmen as well as the office bearers of the Petitioner Union. Hence, the question of the workman involved in the present dispute went on strike is does not arise. It is submitted that Sri. Pothuganti Posham Coal Filler Gang No. 17 (WW2) deposed that the coal filler could not fill more than one tub per day because of less height in 42 panel on 23/09/2000 and 25/09/2000. He also stated that the workman involved in the present dispute did not force anybody to go on strike, he was not alone responsible for the strike. It is submitted that petitioner union as well as delinquent in the enquiry that no fault in the incidents that took place on 23/09/2000 and 25/09/2000 at 42 panel. Without considering the facts and circumstances of the case the enquiry officer submitted his report on 10/09/2002 that charges levelled against the delinquent held proved. The enquiry officer has not given reasonable opportunity to defend the case of the petitioner union. There is no evidence before the enquiry officer to show that the delinquent has committed irregularities as alleged in the charge. Hence the findings of the enquiry officer are perverse and biased. It is submitted that the enquiry officer observed in the enquiry that during the course of cross examination, the Presenting Officer replied that he could not produce the details of number of workmen participated in the strike and number of workmen locked out in 1st shift as the office records were burnt by miscreants on 14.5.2001. It is submitted that without considering the above statement of the management witnesses as well as the Petitioner union witnesses, the Enquiry Officer submitted his report that the charge held proved against the delinquent. The action on part of the Enquiry Officer in submitting findings that the charges held proved against the delinquent is illegal, perverse and biased and no evidence before the Enquiry Officer to show that the charges are held proved against the delinquent. After receipt of the enquiry report, the delinquent has submitted his comments on 18.11.2002 stating that he has not committed any irregularities as alleged in the charge and requested the Enquiry Officer to drop all further proceedings in the matter. Based on the perverse findings of the Enquiry Officer, the General Manager, Mandamarri area straight away passed impugned proceedings dated 6.3.2003 without issuance of Show Cause Notice proposed punishment, reverting the workman involved in the present dispute to lower stage by two SPRAS with cumulative effect w.e.f. 1.4.2003 and also imposed penalty to take effect from 1.4.2003 he will not be eligible to draw two increments/SPRAS is illegal, arbitrary and unjust. It is submitted that as per rules contemplated under the Departmental enquiries, after receipt of the comments from the delinquent the Disciplinary Authority has issued Show Cause Notice with regard to proposed punishment against the delinquent. But in the given case, the Respondent/management has not followed the said rule straight away imposed major penalty against the workmen involved in the present dispute. Hence, the action on part of the Respondent in issuing impugned proceedings dated 6.3.2003 is illegal, arbitrary and unjust and on this ground alone the impugned proceedings dated 6.3.2003 is liable to be vitiated. After passing the impugned proceedings dated 6.3.2003, workmen submitted review application to the Appellate Authority and Director (PA&W), Singareni Collieries Company Limited, Kothagudem to reconsider his case. The Appellate Authority also without considering the facts and circumstances of the case rejected the review application in a mechanical manner. No valid reasons assigned in the rejection order. It is submitted that thereafter the Petitioner Union moved conciliation application before the conciliation officer i.e., Assistant Commissioner of Labour Central, Ramagundam and the conciliation officer conducted several joint meetings to solve the issue. But, the Management has not come forward to settle the issue. The conciliation officer submitted his report that the management has not come forward to settle the issue, hence conciliation proceedings ended in failure. It is submitted that the disciplinary authority as well as appellate authority has not considered the past service record of workman before passing punishment order Dt. 6.3.2003. It is submitted that there is no evidence before the disciplinary authority as well as appellate authority to show that workman has committed irregularities as alleged in the charge sheet. Petitioner union clearly established in the enquiry that there is no lapse on part of the workman the alleged incidents took place on 23/09/2000 and 25/09/2000 due to less height at panel No. 42 KK-5 Incline only the workmen (coal fillers) could not fill the tubs as norms prescribed by the respondent/management. It is submitted that after passing the impugned order dated 6.3.2003 the workman involved in the present dispute is not getting incremental benefits, even no lapse on the part of him the incidents took place on 23.9.2000 and 25.9.2000. It is therefore prayed to declare the action on part of the Respondent/Management in imposing major penalty vide proceedings dated 6.3.2003 against Sri A.Sailoo, Coal Filler, is illegal, arbitrary and unjust and consequently set aside

the consequently direct the Respondents to release all the incremental benefits attendant benefits to which the workman entitled to.

3. The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:

The Respondent Management refuting the averments of the Petitioner has submitted that Mr. Ankati Sailu, was appointed into the services of the respondent's Company on 06.02.1986 as Badli filler and he was later drafted as Coal filler with effect from 30.03.1989. Presently, he is working as Coal cutter in Category-V pay scale with effect from 01.09.2005 at KK.5 Incline. The averment of the petitioner union that while workman discharging his duties as a Coal filler at KK.5, he made representation to the respondent/management along with union office bearers with regard to increase of height at 42 panel working place at KK.S Incline, instead of considering the request of the workman the respondent/management started victimizing those who participated in the union activities by way of issuance of charge memo and charge sheets falsely implicating the workmen into the alleged incident, is baseless and hence denied. Respondent contended that on 23.09.2000 in II shift Coal fillers of Gang No.17, 18, 19 & 20 booked their IN muster and stayed on surface only while other Coal fillers of the shift gone down the Mine, without communicating their demand. When the Head Overman P.Janardhan informed the matter to Asst. Manager Ujjwal Tah, who in turn sent message to Bonthu Prasad, Coalfiller and representative of petitioner union, but he did not turn up on the pretext that he was discussing with Coal fillers. At that time B.Sudarshan Kumar of the petitioner union along with some others went to the Asst. Manager and discussed about the difficulties in working places of 42 panel. During the course of discussions they informed the problem of less height and at that time Manager of the Mine had come to the place that after listening to all, suggested for regrading the track line and advised the Head Overman to give tubs filling account for Malma also. Then the Head Overman informed that the fillers were demanding for acting muster and not agreed for tub accounting for which the Mine Manager had agreed to give acting muster to two Coal fillers in the gang of 10 Coal fillers and after discussions he agreed for acting musters to 05 out of a gang of 10 Coal Fillers, but the Coal Fillers being adamant without accepting the gesture of the Mine Manager left the Mine premises without carrying out any work. Contrary to the above fact, the petitioner union is misrepresenting the facts claiming that the Coal Fillers of Gang No. 17,18,19 and 20 requested for distributing them to other working places instead of 42 panel and that their demand was not considered and respondent/management advised them to come for discussion. The Petitioner union has admitted that in 1st shift of 23.09.2000 Coal fillers deployed at 42 panel filled 1/2 tub and in such case the Coal Fillers of II shift too could have filled the similar amount of coal and could have earned wages for the work done by them instead they chose the wrong line of leaving the mine premises though the Mine Manager had offered the acting muster and to account malma removal also into tub account. The said facts corroborate with the statement of the Management Witness Y.Ashok Kumar. Under Manager of KK-3A Section of KK.5 Incline. The workman witness Potharajula Posham in his statement before the Enquiry Officer at the time of cross examination stated that the problem of less height would be rectified by removing the Malma in the floor by Coal Fillers themselves some times and by giving musters to Coal Fillers with the permission of shift Overmen/Officers. This indicates the disregard of the workmen concerned to find-out way-out for the alleged problem. It is submitted that employees working in shifts will be rotated to other shifts on weekly basis. In this process, the employees in II shift during one week will come to I shift in the next week, while the III shift workers will come to I shift and the I shift workers will go to III shift. In this process, the Coal Fillers of Gang Nos. 17, 18, 19 & 20 who were in II shift on 23.09.2000 came to I shift during the week that commenced from 25.09.2000 since 24th September, 2000 being Sunday (weekly day of holiday). The contention of the petitioner union that instead of considering the already made representation of the Coal Fillers of these gangs, the respondent/management insisted the workmen to do the work at the same place i.e. 42 panel, is denied. The Coal Fillers of the relevant gangs were informed about the rectification work undertaken on Sunday the weekly day of rest and yet the Coal Fillers did not go down the Mine and continued to have discussions with the Mine authorities and though distributed by the Overman concerned they did not go down the Mine, while the KK.S section workmen of KK.5 Incline resumed work. By the act of the Coal Fillers concerned lead by Ankati Sailu, compelled the management of the Mine to declare lockout to other sections of workmen of KK.3A Section of KK.S Incline. The Workman witness P.Posham, during cross examination by Presenting Officer confirmed that the Overman had informed them of the rectification work carried out on Sunday (Playday – weekly day of rest) but they did not believe him. He further submitted that the work persons went in procession to General Manager's Office along with the effigy of officers. It is also established from the statements of Management witnesses and workman witnesses that Ankati Sailu had taken lead in the incidents. It is clear that though the alleged problem was attended to on Sunday and having knowledge of the said fact when the Overman explained them the fact, the concerned Coal fillers did not go down the Mine in I shift of 25.09.2000 who were lead by Ankati Sailu. Therefore, the allegation that they were insisted to do work at the same place i.e. 42 panel, is proved to be incorrect. It is to submit that the contention of the petitioner union that the recognized union as well as the workmen requested the respondent/management with regard to increase of height of 42 panel but management not considered the same is incorrect. The work persons concerned brought the alleged difficulty to the notice of Mine authorities only on 23.09.2000 which is evident from reply given by the Presenting Officer during the cross examination by charge sheeted worker. It is to submit that Ankati Sailu the workman concerned booked his IN muster in II shift on 23.09.2000 and refused to work in the allotted working place i.e. 42 panel and left the mine premises. On 25.09.2000 in I shift also he booked his IN muster and again refused to

work in 42 panel and he along with all other Coal Fillers of KK3A Section of KK.5 Incline struck work illegally in I shift of 25.09.2000 even though Coal Industry has been declared as Public Utility Service by the Government of India duly prohibiting strikes in Singareni Collieries Company Limited. Since his acts constituted misconduct under Company's Standing Orders No.25.11 and 25.16 he was charge sheeted vide charge sheet No.K5/2000//13CS/271, dated 19.10.2000 and the relevant clauses of the Standing Orders read as under:

25.11 : *Going on illegal strike either singly or with other workmen without giving 14 days previous notice.*

25.16 : *Any breach of the Mines Act, 1952 or any other Act or any Rule or Regulations or by laws there under.*

The charge sheeted employee on acknowledging the charge sheet submitted his written explanation dated 23.10.2000. Since the reply given by the charge sheeted employee was found to be unsatisfactory an enquiry was ordered into the charges levelled against him. Accordingly, Enquiry Officer held enquiry proceedings on 20.03.2001, 11.04.2001, 18.04.2001, 10.08.2001, 23.08.2001, 03.09.2001, 09.11.2001 and On 16.03.2002 giving full and fair opportunity to the charge sheeted employee to defend his case. The charge sheeted employee fully participated in the Enquiry Proceedings. From the depositions of Presenting Officer and Management witnesses Y.Ashok Kumar and Uijwal Tah, the Coal Fillers of Gang Nos. 17,18,19 and 20 refused to go down the Mine in II shift of 23.09.2000 and in I shift of 25.09.2000 they struck work illegally. It was also evident that though the Presenting Officer assured to take steps required for increasing the height of the panel and advised the Coal Fillers to come forward in this context, no one came forward. As per the statement of Uijwal Tah, Management Witness, it was clear that A.Sailu and B. Prasad, generally represent the problems of Coal Fillers and they both belong to Gang No.17. As per his statement A.Sailu and B.Prasad approached him along with other Coal Fillers and represented the problem in Panel No.42 but they did not agree to the suggestions made and did not go down the Mine. The WW-1 P.Sambaiah said that generally the problems are represented by A.Sailu and B.Prasad and in reply to the question by Presenting Officer he submitted that he generally goes to acting job as Support Mazdoor and he admitted that it was not correct to go in procession with effigies to G.M's office shouting slogans against Officers. The charge sheeted employee at concluding point of the enquiry proceedings stated that he has been working since 1986 and almost all workmen are working happily and contributing to the best performance and profit of the company and absolutely there were no problems KK.5 in view of improved relations of the workmen and management and that he was happy to say that KK.S Mine got National Safety Award for the year 2000 and with better relations mine problems were being discussed and solved with mutual understanding and that there were no illegal strikes on mine level issues since 26.9.2000 till date and added that he got no vested interest to call for any illegal strike in I shift on 25.09.2000 and requested to excuse him since he was charged for being a representative of the union. He assured that he shall not give chance for such things in future and that he feel sorry for what had happened in I shift of 25.09.2000. Thus it can be concluded that the charge sheeted worker admitted his guilty, therefore, the contention of the petitioner union that A.Sailu did not play any active role in guiding the workers to go on strike is proved to be incorrect. The further contention of the petitioner that the respondent management itself declared lay off in I shift and displayed on notice board without consulting workmen as well as the office bearers of the petitioner union is incorrect. Since the Coal Fillers concerned despite explaining about the rectification work undertaken on 24.09.2000 (Sunday) refused to go down the Mine as such under the provisions of as the work persons concerned did not go down the Mine within 2 hours from the commencement of shift, lockout was declared. It was the charge sheeted worker and other Coal fillers lead by him caused way for declaring lockout as per statute. It is submitted that it is true that the Presenting Officer and other management witnesses informed that the Coal Fillers and Leaders of SCWU held discussions with Mine authorities on the issue of raising the height of the pane No.42. It is also to submit that the Presenting Officer in his reply during cross examination by charge sheeted employee stated he came to know about the alleged problem only on 23.09.2000 and advised them to come along with him to the work spot to identify the problem, if any, and take corrective steps, but the Coal Fillers did not heed to his advice and left the mine premises in II shift on 23.09.2000. Further, on 25.09.2000 when the Overman informed of the corrective steps taken on 24.09.2000 and advised them to go for work, then also they refused to go down and on the contrary forced the management to inflict the provisions of Section 24(3) of LD.Act 1947 by participating in an illegal strike and lead a procession to GM's Office with effigies of Officers. If there was really any problem, that could have been resolved through negotiations at proper way but they cannot resort to an illegal strike. The Workman Witnesses admitted that the regrading of the floor was the work of Coal Fillers. It is to submit that the petitioner union has been projecting the charge sheeted employee as a disciplined personality and that also holding the post of Organizing Secretary of S.C.Workers Union (AITUC) and that he was representing number of problems with respondent/management officials from time to time and brought amicable solutions by fairly discussing with officials, this does not mean that the charge sheeted employee can participate and organize an illegal strike for 3 shifts and cause loss of wages to other employees and by way of production loss to the Company. If he was finding solutions so amicably for different problems from time to time, he could have heeded to the advice of Presenting Officer when it was advised to come with him to the working place to find out the problem and take corrective steps and could have advised other Coal Fillers to go down the Mine in I shift on 25.09.2000 when the Overman had informed of the activity undertaken on 24.09.2000 (Sunday), instead he participated in an illegal strike, organised a procession with effigies of Officers to General Manager's office. Thus his contribution in resolving the issues amicably is legitimately doubtful. The Petitioner Union might have forgotten conveniently the provisions of Sec. 24(3) of ID.Act 1947 and also the adamant attitude of the Coal Fillers in going down the Mine and attending to works in I shift of 25.09.2000 at

panel No.42. The charge sheeted employee and his witnesses had admitted during the enquiry that they resumed work and worked at the same place when General Manager of the Area visited the place and passed required instructions, but they did not pay any attention to the similar assurances by the Mine authorities. As an Organizing Secretary of the petitioner Union, A.Sailu could have attended to duties normally and could have brought the same to the notice of Area General Manager instead of participating in an illegal strike. It is submitted that no lay off was declared but lockout to other categories of employees was declared since a section of work persons struck work illegally, invoking the provisions of Sec. 24 (3) of I.D.Act, 1947. As regards deployment of Badlifillers in II shift on 25.09.2000 it is to submit that Badli is a substitute and hence it is the prerogative of the respondent management to deploy them which the Union cannot question. It is to submit that P.Sambaiah, WW-1 was going on acting job in the category of support man which was admitted by himself in the cross examination and he also added that he did not attend duties in II shift of 23.09.2000 in support of other Coal Fillers of Machine No.9 and also admitted that he was on acting panel of Support Mazdoor and attended to filling work on very less number of days and also admitted in the cross examination that he did not see the practical problems of 42 panel of less height being faced by Coal Fillers. He also admitted that in I shift on 25.09.2000 he came to the Mine but did not attend works because of strike and procession and admitted that it was not correct to go in procession to G.M office with effigies, raising slogans against officers. The allegation that when the Office bearers of the Petitioner Union and Coal Fillers were discussing the issue all of a sudden the respondent/management displayed lockout notice in I shift much before scheduled time, is incorrect. It is a known fact not only to the petitioner union but also to the work persons concerned that if they do not resume duties within two hours of commencement of shift and continue to stay on surface without going down the Mine, they will be considered as on illegal strike and other section of workers who are not parties to strike will be declared lockout. To declare lockout under the provisions of the I.D.Act, 1947, the respondent management need not obtain permission or consult the union as well as work persons. It is to submit that the WW-2 Mr.P.Posham, admitted that on 25.09.2000 when he came to duty, the Overman informed them that problem of less height was attended to on 24.09.2000, but they went to discuss the issue with Manager. He, during cross examination admitted that the problem of low height can be addressed by the removal of Malma in the floor and that this was done some times by Coal Fillers themselves and some times by giving musters to Coal Fillers with the permission of Shift Overman/Officers. He further admitted that Mine Manager had advised to take 2 or 3 musters in II shift of 23.09.2000 but they did not agree for the same. Thus it can be said that the Coal Fillers knowing pretty well about their duties and practices did not follow the same and on the contrary claims that respondent management declared lockout. It is to submit that the contention of the petitioner union that the delinquent as well as petitioner union established in the enquiry that no fault was there with the workmen for the incidents that took place on 23.09.2000 and 25.09.2000 and without considering the facts and circumstances of the case, enquiry officer submitted report stating that the charges were proved, is totally incorrect. Every one admitted that the workers (Coal Fillers) did not work in II shift on 23.09.2000 and also went in procession with effigies of officers to GM's office in I shift of 25.09.2000. The charge sheeted employee himself admitted that he do not have any vested interest to call for any illegal strike in I shift on 25.09.2000 and yet requested the management to excuse him for this time and assured that he shall not give chance for such things in future and expressed his sorrows for what had happened in I shift of 25.09.2000. The allegation of the petitioner union that the Enquiry Officer did not give reasonable opportunity to defend the case of the petitioner is denied. It is to submit that the enquiry officer had considered the statement made by the charge sheeted employee at the concluding stage of the enquiry proceedings. While stating that all workers were working happily and contributing to the best performance and getting profits of the Company with improved relations etc., the workman himself requested for excuses from management and assured that he shall not give chance for such things in future, which is a clear admittance of fault by the charge sheeted employee. It is to submit that it is a fact that a fire accident had taken place which was an act of some miscreants at KK.S Pit Office reducing the records to ashes. Because of this the Presenting Officer could not produce the relevant records. The Enquiry Officer held the enquiry proceedings following all the principles of natural justice and the Charge sheeted employee took part in the enquiry proceedings fully without any sort of difficulty and inconvenience and at the concluding stage of the proceedings he himself admitted his mistake and requested to excuse. The charge sheeted employee was supplied copies of enquiry report, proceedings etc., vide letter No.MMR/PER/D/072/4357, dated 20.02.2002 to enable him to make his written representation against the findings of the Enquiry Officer. The charge sheeted employee submitted his written representation dated 08.11.2002 wherein he did not dispute the conduct of Enquiry Proceedings and also the findings of the Enquiry Officer. Since the enquiry proceedings were conducted properly and on the basis of evidence and considering the depositions of the Presenting Officer, Management witnesses and also that of the charge sheeted employee and his witnesses, the Enquiry Officer submitted his report holding A.Sailu, guilty of the charges levelled and hence the allegation of the petitioner union that based on the perverse findings of the Enquiry Officer, the General Manager of Mandamari Area straight away passed proceedings dated 06.03.2003 without issuance of show cause notice etc., is totally incorrect. It is to submit that the misconduct committed and proved against the charge sheeted employee is of serious nature and attracts severe punishment. However, the respondent management took a lenient view and imposed the penalty of reversion to lower stage by two Special Piece Rate Allowances, with cumulative effect, with effect from 01.04.2003 vide order No.MMR/PER/D/072/924, dated 06.03.2003. It is to submit that already the respondent management supplied a copy of the enquiry proceedings and report and after examining the representation given by the charge sheeted employee against the findings of the enquiry officer penalty order was released. After issuance of penalty order dtd.06.03.2003,

Ankati Sailu, submitted an appeal to the Appellate Authority dated 03.07.2003. After considering the said appeal the No.CRP/PER/R/D/94/415, dated 12.03.2004 confirmed the Director (PA&W) vide letter penalty of reversion to lower stage in present scale by reducing 2 SPRAs with cumulative effect, vide letter No.MMR/PER/D/072/924, dated 6.3.2003. The petitioner union represented the case of the worker concerned Ankati Sailu, before the Asst. Labour Commissioner (Central), Mancherial and Assistant Labour Commissioner© took conciliation proceedings. The conciliation proceedings ended in failure on 30.11.2005 and the Conciliation Officer submitted his report vide letter No.1/1/2005-ALC/MCI, dated 30.11.2005 to the Secretary to Govt. of India, Ministry of Labour, New Delhi. The misconduct committed and proved against Ankati Sailu was serious in nature and deserves severe punishment of dismissal. However, taking into account the past service of the charge sheeted employee and in order to provide an opportunity to the party to realize his mistake and improve himself the lesser punishment of reversion to lower stage by reducing two Special Piece Rate Allowances (SPRAS) was imposed with effect from 01.04.2003. It is to submit that sufficient evidence was adduced by the Presenting Officer and his witnesses during the course of enquiry. From the statement of the charge sheeted employee and also from the depositions of his witnesses it was conclusively established that Ankati Sailu participated in an illegal strike 25.09.2000 and that he refused to attend to duties in II shift of 23.09.2000 and it was also established that the work persons concerned did not accept the offer made by the mine authorities to find out a solution to the alleged problem of low height at panel No.42 in KK.S Incline. Without prejudice to the rights of the respondent management to deny later, if the contention of the petitioner union is considered to be true that due to less height the Coal Fillers could not fill tubs as per norms on 23/09/2000 and 25/09/2000, participating in an illegal strike and going in a procession with effigies of officers, raising slogans against them to GM's Office is not the admissible method of expressing discontentment, dissatisfaction or resentment. Further, in his representation to appellate authority, the party submitted that because of unrest among workmen against the rigorous behaviour of the then Mine Manager of KK.5, taking advantage of the alleged problem, all Coal Fillers and workers struck work. Thus it can be concluded that under the guise of less height at Panel No.42 of KK.5 Incline, to take avenge against the then Mine Manager, the charge sheeted employee participated and organized illegal strike and also organized procession with effigies raising slogans against the officers of the KK.S Mine, which by any means and by any standards is not admissible and, acceptable. The Enquiry Officer held the enquiry proceedings following all the principles of natural justice and the Charge sheeted employee took part in the enquiry proceedings fully reasonable opportunity to defend the case of the petitioner. Presenting Officer could not produce the relevant records without any sort of difficulty and inconvenience and at the concluding stage of the proceedings he himself admitted his mistake and requested to excuse. The charge sheeted employee was supplied copies of enquiry report, proceedings etc., vide letter No.MMR/PER/D/072/4357, dated 20.02.2002 to enable him to make his written representation against the findings of the Enquiry Officer. The charge sheeted employee submitted his written representation dated 8.11.2002 wherein he did not dispute the conduct of Enquiry Proceedings and also the findings of the Enquiry Officer. Since the enquiry proceedings were conducted properly and on the basis of evidence and considering the depositions of the Presenting Officer, Management witnesses and also that of the charge sheeted employee and his witnesses the Enquiry Officer submitted his report holding A.Sailu, guilty of the charge leveled. It is to submit that the misconduct committed and proved against the charge sheeted employee is of serious nature and attracts severe punishment. However, the respondent management took a lenient view and imposed the penalty of reversion to lower stage by two Special Piece Rate Allowances, with cumulative effect, with effect from 01.04.2003 vide order No.MMR/PER/D/072/924, dated 06.03.2003. After issuance of penalty order dtd.06.03.2003, Ankati Sailu, submitted appeal to the Appellate Authority dated 03.07.2003. After considering the said appeal the appellate authority, Director (PA&W) vide letter No. CRP/ PER/R/D/94/415, dated 12.03.2004 confirmed the penalty of reversion to lower stage in present scale by reducing 2 SPRAs with cumulative effect, vide Order No. MMR/ PER /D/072/924, dated 6.3.2003. The misconduct committed and proved against Ankati Sailu was serious in nature and deserves severe punishment of dismissal. Further, in his representation to appellate authority, workman submitted that because of unrest among workmen against the rigorous behaviour of the then Mine Manager of KK.5, taking advantage of the alleged problem, all Coal fillers and workers struck work. Thus it can be concluded that under the guise of less height at Panel No.42 of KK.5 Incline, to take avenge against the then Mine Manager, the charge sheeted employee participated and organized illegal strike and also organized procession with effigies raising slogans against the officers of the KK.5 Mine, which is not admissible and acceptable. Therefore, it is prayed that to dismiss the claim petition as devoid of merits.

4. The domestic enquiry conducted by the Respondent Management is held legal and valid vide order dated 16.8.2018.

5. Heard arguments of both parties under Sec.11A of the Act Perused the record.

6. Both the parties have submitted their written submissions.

7. **On the basis of pleadings and written submissions made by both the parties following points emerge for consideration in the present matter:-**

- I. Whether the domestic enquiry conducted against the workman is legal and valid?
- II. Whether the action of the Respondent Management by reverting to lower stage by two SPRAs (Special Piece Rate Allowance) to Sri Ankathi Sailoo, workman is legal and justified?

- III. Whether workman has committed misconduct in breach of Company's Standing Orders No.25.11 and 25.16?
- IV. Whether the imposition of punishment to workman of reversion to lower stage by two SPRAs is disproportionate and not commensurate to the misconduct alleged to be committed by the workman?
- V. If not, to what relief the workman is entitled?

FINDINGS:

8. Point No.I: This point pertains to the question of validity and legality of the domestic enquiry conducted against the workman by Respondent Management. The validity and legality of the domestic enquiry has been held legal and valid by the Tribunal vide order dated 9.2.2011.

Thus, this point is answered accordingly.

9. Points No.II & III: Petitioner's counsel submitted that on 23/09/2000 in first shift Coal Fillers engaged for work in 42 panel, KK-5 Incline, were not able to discharge their duties as per norms prescribed by the management due to less height of 42 panel. The workman have filled only 1/2 tub each with great difficulty. The 1st shift coal filler informed to the 2nd shift coal fillers with regard to said problem on 23/09/2000. It is further submitted that the coal fillers of Gang Nos. 17, 18, 19 and 20 requested to distribute them in other working places instead of 42 panel, KK-5 incline. But the Respondent Management did not consider their request and advised the workmen to come for discussion at the office. Workman further submitted that though the workmen coal filler of Gang Nos. 17,18, 19 & 20 who attended duties in 2nd shift on 23/09/2000, being on 24/09/2000 is play day, on 25/09/2000 attended their duties in 1st shift, and they said that the respondent management has been informed that due to less height of Panel 42 they are not in a position to discharge their duties, but, instead of considering their difficulty respondent management insisted the workmen to do work at same place i.e., 42 panel, KK-5 incline. It is submitted that instead of considering the request of the workman as well as the recognized union the respondent management has issued charge sheet dated 19/10/2000 to the workman involved in the present dispute which was based on false reports of the company officials alleging that he violated the Company Standing Order No's 25 (11) and 25 (16) on 23/09/2000 in 2nd shift and on 25/09/2000 in 1st shift. The allegation made against the workman are false and incorrect. The workman is a Mine Committee Member of recognized Union. After receipt of the charge sheet workman submitted his detailed explanation denying the charges leveled against him. He clearly stated in his explanation that he was Organizing secretary of recognized union and has been discharging his duties at 42 panel with less height of working place from the last 23 days and they represented many times to respondent/management with regard to said problem at working place. It is submitted that on 23/09/2000 in 1st shift the respondent management kept one gang instead of four gangs in 42 panel and workmen attended the duties at 1st shift with great difficulty. On the same day in 2nd shift due to same problem they requested the respondent management to provide alternate working place, but the respondent management refused. Instead of considering, the explanation submitted by the workman the respondent Management has ordered an enquiry into the alleged incident. The action on part of are the respondent/management in not considering the request of the petitioner union as well as the workman involved in the present dispute is illegal arbitrary unjust. It is further submitted that during enquiry MW1 MW2 & MW3 clearly admitted that they have discussed the problem of less height in 42 panel with representatives of the SCW Union as well as coal fillers who were working at 42 panel KK 5 Incline, it goes to show that there was a problem at the time of discharging the duties and there was no lapse on part of the workman while discharging his duties on 23.9.2000 and 25.9.2000. It is further submitted that on 25/09/2000 the workmen (Coal Fillers) had represented the Under Manager with regard to problems faced by the coal fillers. But instead of considering the same the respondent management has declared lay off and a notice was displayed on notice board. Further on 26/09/2000 in 1st shift the General Manager visited the working place at 42 panel and ordered to increase the height of the 42 panel working place. The problem of less height has been proved by the witness WW1 Sri P. Sambaiah. The witness has stated that on 23.9.2000 due to the said problem only the workman have filled a half tub and requested in 2nd shift to change their working place and same was not considered by the respondent management. All the workmen attended their duties as per schedule. It is also submitted that office bearers of the petitioner union and as well as the coal fillers discussing the issue before the officials of the respondent management on 25/09/2000, all off sudden the respondent/management displayed lock out notice on Notice Board in 1st shift much before scheduled time of 1st Shift, and also stated that the workman involved in the present dispute by name Mr. Sailoo. Workman did not play any active role in guiding the workmen to go on strike. In this regard, the Respondent Management himself declared lay-off in the first **shift without consulting** the workman as well as the office bearers of the Petitioner union. Hence, the question of the workman involved in the present dispute going on strike does not arise. It is also submitted that the action on the part of the Enquiry Officer in submitting his report on 10/09/2002 that charges leveled against the delinquent held proved was without any evidence. It is further submitted that on the basis of perverse and biased findings of the Enquiry Officer, the General Manager, Mandamarri area passed impugned proceedings dated 6.3.2003 without issuance of Show Cause Notice the proposed punishment, reverting the workman involved in the present dispute to lower stage by two SPRAs with cumulative effect w.e.f.1.4.2003 and also imposed penalty to take effect from 1.4.2003 he will not be eligible to draw two increments/SPRAS. The action on part of the General Manager, Mandamarri area in reverting the workman to lower

stage by two SPRAS with cumulative effect w.e.f. 1.4.2003 and also imposed penalty to take effect from 1.4.2003 he will not be eligible to draw two increments/SPRAS is illegal, arbitrary and unjust. It is also submitted that Petitioner union moved conciliation application before the conciliation officer i.e., Assistant Commissioner of Labour Central, Ramagundam on 27.1.2005 to intervene in the matter for illegal punishment order dated 6.3.2003 passed by the General Manager, Mandamarri Area. But, the Management has not come forward to settle the issue. Hence, the conciliation proceedings, ended in failure and the same was submitted to the competent authority on 30.11.2005. Further it is submitted that there was no evidence before the disciplinary authority as well as appellate authority to show that workman has Committed irregularities as alleged in the charge sheet. Petitioner union clearly established in the enquiry there is no lapse on part of the workman the alleged incident took place on 23/09/2000 and 25/09/2000.

10. On the other hand, Respondent's submit that the charge sheeted employee on concluding point of enquiry proceeding has stated that he has been working since 1986. At KK-5 incline almost all workers were working happily and contributing to the best performance and profit of the company. There were no problems at KK-5 incline in view of the improved relations of the workmen and Management. They were happy to say that KK-5 incline mine got National Safety award for the year 2000. Further, workman has stated that, with better relations, the minor problems are being discussed and solved with mutual understanding. There were no illegal strikes on mine level issue since 26.9.2000 till today. It is stated by workman that he has got no vested interest to call for any illegal strike in 1st shift on 25.9.2000 and requested to excuse him since he was charged for being a representative of the union. The delinquent in that enquiry also stated that he assures that he shall not give chance for such things in future. He feels sorry for what has happened in 1st shift on 25.9.2000. The Respondent's counsel submit that from the above statement of workman in the enquiry, it can be concluded that the charge sheeted worker admitted his guilty, therefore, the contention of the Petitioner union that A. Sailu did not play any active role in guiding the workers to go on strike is proved to be incorrect. Respondent also submitted that the contention of the Petitioner union that Respondent Management declared lay-off in I shift and displayed on notice board without consulting workmen as well as the office bearers of the Petitioner union is incorrect. Further it is submitted by the Respondent counsel that since the Coal fillers concerned despite explaining about the rectification work undertaken on 24.09.2000 (Sunday) refused to go down the Mine and as such under the provisions of Section 24(3) of Industrial Disputes Act, 1947 as the workman concerned did not go down the Mine within two hours from the commencement of shift, lockout was declared. It was the charge sheeted worker and other Coal fillers lead by him caused way for declaring lockout as per statute. It is also submitted that the Presenting Officer and other management witnesses informed that the Coal fillers and leaders of SCWU Union held discussions with Mine authorities on the issue of raising the height of the panel No.42. It is also to submit that the Presenting Officer in his reply during cross examination by charge sheeted employee stated he came to know about the alleged problem only on 23.09.2000 and advised them to come along with him to the work spot to identify the problem, if any, and take corrective steps, but the Coal fillers did not head to his advice and left the mine premises in II shift on 23.09.2000. Further, on 25.09.2000 when the Overman informed of the corrective steps taken on 24.09.2000 and advised them to go for work, then also they refused to go down and on the contrary forced the management to inflict the provisions of Section 24(3) of Industrial Disputes Act, 1947 by participating in an illegal strike and lead a procession to GM's Office with effigies of Officers. If there was really any problem, that could have been resolved through negotiations in proper way, but they cannot resort to an illegal strike. The Respondent's counsel submitted that the petitioner union has been projecting the charge sheeted employee as a disciplined personality and that also holding the post of Organizing Secretary of S. C. Workers Union (AITUC) and that he was representing number of problems with respondent/management officials from time to time and brought amicable solutions by fairly discussing with officials, this does not mean that the charge sheeted employee can participate and organize an illegal strike for 3 shifts and cause loss of wages to other employees and by way of production loss to the Company. If workman was interested to find out the solution amicably, he could have headed to the advice of Presenting Officer when it was advised to come with him to the working place to find out the problem and to take corrective steps and he could have advised other Coal fillers to go down the Mine in I shift on 25.09.2000. But despite the fact when the Overman had informed of the activity undertaken on 24.09.2000 instead he participated in an illegal strike, organized a procession with effigies of Officers to General Manager's office. The Petitioner Union have forgotten conveniently the provisions of Sec. 24(3) of Industrial Disputes Act, 1947 and also the adamant attitude of the Coal fillers in not going down the Mine and not attending to the works in I shift of 25.09.2000 at panel No.42. The charge sheeted employee and his witnesses had admitted during the enquiry that they resumed work and worked at the same place when General Manager of the Area visited the place and passed required instructions, but they did not pay any attention to the similar assurances by the Mine authorities. It is also submitted that the workman could have attended the duties normally and could have brought the same to the notice of Area General Manager instead of participating in an illegal strike. It is also submitted that no lay off was declared but lockout to other categories of employees was declared since a section of work persons struck work illegally invoking the provisions of Sec. 24 (3) of Industrial Disputes Act, 1947. The Petitioner witnesses had admitted the fact of illegal strike of that day and not attending the duties. It is also submitted that workers and other Coal fillers in I shift on 25.09.2010 they came to the Mine but did not attend works because of strike and procession and workman admitted that it was not correct to go in procession to GM office with effigies raising slogans against officers. The charge sheeted employee himself admitted that the strike held on 25.9.2000 was illegal strike in the first shift and requested to pardon him for that incident and also requested to give a chance not to repeat it in future. He also expressed his sorry for what

happened in first shift on 23.9.2000. thus, Petitioner workman has admitted the factum of illegal strike on that day. Further it is submitted by Respondent's counsel that a fire accident has taken place at KK-5 Pit office reducing the records to ashes. Because of this the Presenting Officer could not produce the relevant records.

11. In view of the submissions made by the Petitioner union of workman as well as the Respondent, and on perusal of record of enquiry proceeding, following facts are said to be admitted by the workman:-

- i) That workman was on duty as a coal filler on 23.9.2000 as well as on 25.9.2000.
- ii) That the work at Panel 42, KK-5 incline was paralysed and stopped on 23.9.2000 and 25.9.2000 due to refusal by the coal fillers to go down in the mine for work.
- iii) That the workman made demand to raise the height of panel 42, KK-5 incline, the work place as they were facing difficulty for filling the tub due to less height at the work place.
- iv) It is also admitted that the Petitioner along with workman was deployed in the shift on 23.9.2000 as well as 25.9.2000 and he proceeded to discuss the matter with the Respondent Management at their office.
- v) That on 25.9.2000 the workman and other co-workers refused to go down in the mine for work.
- vi) That the overman informed the workman on 25.9.2000 about corrective steps taken by the Management at Panel 42, KK-5 incline in pursuance of their demand of raising height. But the workman with other co-workers proceeded in procession towards G.M.'s office and they were also carrying the effigies of the officers of Management shouting slogan against Management despite the assurance made by Management. The record of enquiry proceeding further goes to reveal that Respondent Management in order to prove the charges against the workman, has examined witnesses MW1, MW2 and MW3 who have witnessed, the incident of strike by workman on that day and these Management witnesses have categorically stated that the workman Sri A. Sailu, who was in representative capacity of the office bearer union of the workmen lead the procession with effigies of officials to the office of the GM's office. The Respondent Management witnesses were cross examined by Petitioner's counsel, but nothing has been elicited in their cross examination to discredit their testimony regarding the incident of illegal strike on 25th September, 2000 by the workman in the Respondent Management company. After conclusion of the enquiry, the workman Petitioner Sri A. Sailu has been held guilty of contravention of the Standing Orders No.25.11 and 25.16.

Standing Orders No.2511 & 25.16 are as below:-

"25.11: Going on illegal strike either singly or with other workmen without giving 14 days previous notice.

25.16: Any breach of the Mines Act, 1952 or any other Act or any Rule or Regulations or Bylaws there under."

Sec.2(q) of the I.D. Act, 1947 defines the strike as below:-

- (q) "strike" means a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

Merely going on strike by the workman does not mean that there is contravention of any Standing Orders, unless it is proved to be illegal strike.

Sec.24 of I.D. Act, 1947 defines illegal strike:-

- (1) A strike or a lock-out shall be illegal if--
 - (i) it is commenced or declared in contravention of section 22 or section 23; or
 - (ii) it is continued in contravention of an order made under sub-section (3) of section 10¹[or sub-section (4A) of section 10A].
- (2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, ¹[an arbitrator, a] ²[Labour Court, Tribunal or National Tribunal], the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10¹[or sub-section (4A) of section 10A].
- (3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

Sec.22 of I.D. Act, 1947 provides Prohibition of strikes and lock-outs.-

- (1) No person employed in a public utility service shall go on strike in breach of contract:-

- (a) without giving to the employer notice of strike, as herein- after provided, within six weeks before striking; or
- (b) within fourteen days of giving such notice; or
- (c) before the expiry of the date of strike specified in any such notice as aforesaid; or
- (d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

12. In view of the above provision of I.D. Act, 1947 we have to examine whether workman was guilty of illegal strike in the present matter. Admittedly, the Respondent company is public utility service company and the provision Sec.22 of the Industrial Disputes Act, 1947 applies to it. There is prohibition of strike without giving notice to the employer, and after notice of strike to the employer within six weeks before the strike. There is no plea or evidence produced by the Petitioner union that they have given any notice of strike under Sec.22 of I.D. Act, 1947 to the Respondent Management before proceeding on strike on 25.9.2000. Workman has admitted in his statement before Enquiry that they did not work on 25.9.2000 in Mine, as their demand of raising of height of 42 Panel was not considered by the Management. Therefore, the conduct of the workmen being absent from the duties on 23.9.2000 and 25.9.2000, and refused to work on duty, amounts to illegal strike u/s 22 of I.D. Act, 1947. In addition to absence from duty they also take out the procession with effigies of officials of Management shouting slogans, also amounts to misconduct in contravention of the company's Standing Orders. During the enquiry Management witness has proved conduct of the workman on 25.9.2000 and on the basis of admission of workman in statement, Enquiry Officer found him guilty of the contravention of the Standing Orders No.25.11 and 25.16 of the company. Thus, it is proved that workman was involved in the illegal strike on 25.9.2000. Now, let us examine whether there was justification for workman for being absent from duty.

13. In this context, I would like to give reference of the decision of the **Hon'ble Apex Court in the case of Syndicate Bank Vs. K. Umesh Nair 1995 AIR 319, wherein the Hon'ble Apex Court have held:-**

"The question whether a strike or lockout is legal or illegal does not present much difficulty for resolution since all that is required to be examined to answer the question is whether there has been a breach of the relevant provisions. However, whether the action is justified or unjustified has to be examined by taking into consideration various factors some of which are indicated earlier. In almost all such cases, the prominent question that arises is whether the dispute was of such a nature that its solution could not brook delay and await resolution by the mechanism provided under the law or the contract or the service rules. The strike or lockout is not to be resorted to because the party concerned has a superior bargaining power or the requisite economic muscle to compel the other party to accept its demand. Such indiscriminate use of power is nothing but assertion of the rule of "might is right". Its consequences are lawlessness, anarchy and chaos in the economic activities which are most vital and fundamental to the survival of the society. Such action, when the legal machinery is available to resolve the dispute, may be hard to justify. This will be particularly so when it is resorted to by the section of the society which can well await the resolution of the dispute by the machinery provided for the same. The strike or lockout as weapon has to be used sparingly for redressal of urgent and pressing grievances when no means are available or when available means have failed, to resolve it. It has to be resorted to, compel the other party to the dispute to see the justness of the demand. It is not to be utilised to work hardship to the society at large so as to strengthen the bargaining power. It is for this reason that industrial legislation such as the Act places additional restrictions on strikes and lockouts in public utility services."

In view of the above law laid down by the Hon'ble Apex Court. Now, we have to examine that whether there was justification for an illegal strike on 25.9.2000 by the workman. Whether action of strike by the workman was justified in the present matter. It has been proved by the Management evidence that on 25.9.2000 the workman were absent from duty and they refused to join duty. This fact is admitted by workman too.

14. Now, we have to see whether the conduct of the workman in participating in the illegal strike on 25.9.2000 was just or unjustified. The workman has submitted that there was less height of 42 panel where the workman along with other coal fillers was posted on 23.9.2000 and 25.9.2000. Number of representations have been made earlier by the union as well as workman stating difficulties faced by them in discharging duties in mine due to less height of 42 panel. But, Respondent Management did not consider their problems. Therefore on 23.9.2000 and 25.9.2000 they did not go into the mine for work and proceeded to the office of Respondent Management, to discuss the problems of the workers. In this context during the enquiry, the delinquent workman has examined himself as WW1 and what he stated in his cross examination, is being reproduced verbatim as below:

Q: Do you agree that all coal fillers struck work in first shift on 25.9.2000 and you have participated in the same?

A: Yes. I have participated in the strike in I shift since I alone can't go for work when all other coal fillers go on strike in I shift on 25.9.2000. Further, I wish to add that the incident in I shift on 25.9.2000 was a spontaneous reaction against the Management over unexpressed long pending problems faced by most of the workers of different categories which has resulted in a procession with effigies of Manager and Safety

Officer to represent the difficulties in general to the General Manager. I say that the strike in I shift on 25.9.2000 was exactly not due to the problem of coal fillers alone. It was the opportunity availed by all other workmen and by other unions also.

Q: Do you feel it correct to go in procession with effigies of Manager and Safety Officer uttering slogans against the Manager and S.O.,?

A: No, I do not feel it correct to go in procession with effigies etc.. But it was the spontaneous reaction of all workers in general. I feel personally sorry for what has happened that day beyond mine premises.

Q: Do you feel guilty in participating in the procession to GM's office or not?

A: Yes, I feel guilty in participating in the procession to GM's office. But it was the spontaneous reaction of almost all unions and all workmen of KK-3A section. I am not alone responsible for the happenings.

Q: How many days did strike continued?

A: The strike continued for 3 shifts on 25.9.2000 because, in general the strike shall be called of in the same shift till in which it commenced.

Q: I say that due to strike around 1100 man shifts were lost by the workmen and about 1000 tons production was lost by the company. Do you agree or not?

A: I agree. Because of the strike workers lost their wages and company lost production.

Q: Do you know that strikes are prohibited in S.C. Co. Ltd., and your participation in strike in I shift on 25.9.2000 amounts to violation of Standing Orders or not?

A: Yes. I know. But I could not control the total workmen of KK 3A section to change their decision to go on strike.

Q: Have you gone for distribution afterwards?

A: No, we could not go for distribution. Since the problem was discussed with Manager by our union delegates of MM branch. But unfortunately since lockout notice was displayed, we could not go for distribution.

Q: Have you worked in I shift as 25.9.00 or not?

A: As usual I have booked my IN muster in I shift and was prepared to go for work. But I along with other workmen went to enquire manager about the rectification of roof height work done on 24.9.00. But meanwhile when our union delegates were discussing the matter with manager, Lock-out notice was displayed on the Notice Board. So, all the workmen reacted spontaneously and went away without working resulting in strike. I too followed the other workmen.

Thus, from the perusal of the above statement of the workman, recorded during the enquiry in cross examination, the workman clearly admits that he participated in the illegal strike on 25.9.2000 and also lead the procession with effigies of the officials of the Management to the office of the General Manager. Admittedly, workman refused to work on that day while he was on duty. This fact, that the workman along with other workmen on 23rd and 25th September, 2000, refused to work in the mine has also been proved by the Management witness.

15. The Management witness categorically stated that on 24.9.2000 after considering the problems of the workmen in the less height at 42 panel, the rectification work was done at the work place. But when on the next day i.e., 25.9.2000, workman turned up on duty and he was informed about the rectification work by the Overman but, the workman refused to go down in the mine and he did not verify the rectification work done by manager in the mine on 24.9.2000 instead he instigated other workmen to refuse to duty and initiated the illegal strike. They proceeded to GM's office in the procession of workers. They were also carrying the effigies of the management officials and shouting slogans against the Respondent management. Thus, the above conduct of the workman Sri A. Sailu could not be termed as a justified action. Since he was told about rectification of problem by the Overman on 25.9.2000 then he was not justified to proceed on illegal strike. Moreover, the problem of less height at work place in the mine was not so imminent that it can not brook delay and await the solution by the mechanism provided under the law or contract or service Rule. They could have waited for solution to the problem by adopted mechanism provided under law and Rules.

16. The workman admitted that due to the strike of the workman on 25.9.2000 there was 1000 tons of loss of production in the company and also the 1100 musters were lost by the workmen. Therefore, in these circumstances, illegal strike organized by the workman Sri A. Sailu along with other workmen in any circumstances, can not be said to be justified. Therefore, the workman Sri A. Sailu was rightly held guilty of charges for committing illegal strike in contravention of the Company's Standing Orders No.25.11 and 25.16, which was not justified.

Thus, Points No.II & III are answered accordingly.

17. Point No. IV: Since the workman has committed misconduct in contravention of the Company's Standing Orders No.25.11 and 25.16, as he was found guilty of committing illegal strike without any justification, the Respondent management has imposed punishment of reversion to lower stage by two SPRAs on the workman for his misconduct. Since due to the misconduct of the workman, the company suffered the production of 1000 tons of the material as well as there was loss of 1100 musters due to illegal strike, the Respondent Management taking lenient view has imposed the punishment of reverting him to two lower SPRAs with cumulative effect.

In the case of M.L. Singla Vs. Punjab National Bank, Civil Appeal No.1841 decided on 20.9.2010 Hon'ble Apex Court have held:-

"once it is held that domestic inquiry is legal and proper the next question which arises for consideration is as to whether the punishment imposed on petitioner is just and legal or it is disproportionate to the gravity of the charges."

Hon'ble Apex Court in the case of Management **Coal India Ltd. v. Mukul Kumar Choudhary Civil Appeal 5762-5763 of 2009 decided on 24.08.2009** have held:-

"One of the test to be applied while dealing with the question of punishment would be: would any reasonable employer have imposed such punishment in like circumstances? Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment."

Therefore, the punishment imposed upon the workman can not be termed as disproportionate or not commensurate to the misconduct committed by the workman.

18. It is also argued on behalf of the workman that the workman as representative of the union and office bearer of the workman union has moved the representation earlier for appraising the problem of the workman at the work place and he was victimized by Management. But workman failed to prove that earlier any representation regarding problem was moved to Management. Therefore, the contention of the workman is not acceptable.

19. The perusal of impugned order goes to reveal that the Respondent management by taking lenient view has imposed punishment of reversion to lower stage by two SPRAs with cumulative effect to the workman since, the said misconduct of illegal strike ensuing the major loss of production as well as workman musters was of major category. Therefore, the punishment imposed upon the workman can not be termed as disproportionate or not commensurate to the misconduct committed by the workman.

Thus, Point No.IV is answered accordingly.

20. Point No.V: In view of the fore gone discussion and findings given in Points No.I, II, III and IV, it is held that the workman is not entitled to any relief as prayed for.

Thus, Point No.V is answered accordingly.

Result:

In the result the reference is answered as under:

The action of the Management of M/s. Singareni Collieries Company Ltd., in reverting to lower stage by two SPRAs (Special Piece Rate Allowance) in respect of Sri Ankathi Sailoo is legal and justified. As such, the workman is not entitled to any relief. Petition stands dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 9th day of June, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

Witnesses examined for the
Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 सितम्बर, 2023

का.आ. 1470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंगरेनी कोलियरी कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद** के पंचाट (संदर्भ संख्या 240/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/08/2023 को प्राप्त हुआ था।

[सं. एल-22012/70/2014-आई.आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 240/2014**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Singareni Collieries Company Ltd** and their workmen, received by the Central Government on **07/08/2023**.

[No. L-22012/70/2014 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD****Present : Sri Irfan Qamar, Presiding Officer**Dated the 21st day of July, 2023**INDUSTRIAL DISPUTE No.240/2014****Between :**

The President (Bandari Satyanarayana),
Rashtriya Collieries Mazdoor Sangh (RCMS)
Rajkumar Complex, Saibaba Temple Road,
Jaffar Nagar, Mancherla -504 208.

Adilabad Dist..

..... Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area, Sreerampur-504 303.

Adilabad Dist.

.... Respondent

Appearances:

For the Petitioner : Sri Sangars Bhagawanth Rao, Advocate

For the Respondent: Sri Y. Ranjeeth Reddy , Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/70/2014-IR(CM-II) dated 25.11.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Distt., in terminating the services of Sri Are Shankaraiah, Ex-Coal Filler, SRP-1, Sreerampur Area with effect from 19.3.1998 is justified or not? If not, what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No.240/2014 and notices were issued to the parties concerned.

2. **The averments made in the claim statement are as follows:**

It is submitted that the Petitioner was appointed an employee on 11.11.1988, and he became permanent employee during the course of service in the Company. The Service conditions of the Petitioner are governed by various standing orders of Company. That the Petitioner could not attend to his duties during the year 1996 due to his ill-health and the Respondent issued a show cause notice dated 13.3.1997 and the Petitioner submitted reply on 19.8.1997 and which could not be considered by the Respondent Company and dismissal from Service through proceedings No. SRP(P)/P (IR)/35.A/98/520, dated 19.3.1998. It is further submitted that the Petitioner preferred an appeal to the Higher authorities which was went in vein, and Respondent authority mechanically upheld the orders of Chief General Manager, Srirampur Division. Further, the Petitioner was put in 3 years of service without any red remark and the Petitioner has got still 20 years of service for superannuation. The removal from service of the Petitioner, who rendered more than 2 years of qualified service is arbitrary, illegal and against the principles of natural justice and also against to the Provisions of the Standing Order of the Company. It is submitted that the Petitioner was given employment for the post as a Ex-Coal Filler. So giving employment to the Petitioner is subject to availability of vacancy of work. Whenever Petitioner used to request for job therein no work but there appears to be contributory negligence. The respondent company one way gave employment and other way dismissed the Petitioner from service. The intention of the company is crystal clear, only to remove the masses i.e excessive labour. The company adopted unfair labour practice and victimization. The Petitioner could not opt Rs. 3,00,000/- as compensation in lieu of employment, but opted employment. Now the Petitioner has got re-option to claim compensation of Rs. 5,00,000/- in lieu of dependent employment through Settlements dated 20.11.2009 if the employment is not provided. The action of the Respondent amount to "Hire and Fire" which has no force in the Industrial Jurisprudence. That the "Awards and Settlements" both are decrees in terms of Industrial disputes Act. There was settlement from 1.1.2000 to 31.12.2010 before the Regional Labour Commissioner at Hyderabad, those who were removed from 1.1.2000 to 30.12.2010, cases can be considered by the Management as per the Circular P.40/5911/IR/33, dated 10.3.2000, the Petitioner was called for interview, so the case of the petitioner is not considered for Re-employment as per the settlement. If the petitioner was given employment he would have been put in more than additional 20 years of service. Therefore the non- consideration of settlement by the company is very bad and against the law. That the Respondent did not conduct enquiry properly and no Documents were given to the Petitioner and no subsisting allowance is paid to him. The Respondent obtained thumb impressions on enquiry report and conducted enquiry and Petitioner do not know the English language and enquiry conducted by the Respondent without mentioning contents therein is arbitrary, illegal and against to the Principles of natural Justice. That the Petitioner prays the Hon'ble Court to decide the validity of Domestic enquiry. Since date of removal Petitioner and his children were on roads with untold sufferings. Therefore, prayed for reinstatement into service with continuity of service and other attendant benefits along with full back wages by setting aside dismissal order dated 19.3.1998.

3. **Respondent filed counter denying the averments of the Petitioner as under:**

It is submitted that the RCMS Union who raised the dispute before the conciliation officer, has not filed any Claim Statement before this Hon'ble Tribunal and as such Sri Arey Shankaraiah who filed the Claim Statement is not maintainable and considering that the petitioner-union has no case to represent before this Hon'ble Tribunal. It is submitted that the present Petition has been filed by the Petitioner Sri Arey Shankaraiah (Are Shankaraiah), to direct the Respondent to reinstate the Petitioner into service with continuity and other attendant benefits and with full back wages, by setting aside the dismissal order bearing No.SRP/P(IR)/35.A/98/620, Dated 19.3.1998. It is submitted that in accordance with Sec. 2(A) (2) of the Industrial Disputes Amendment Act, 2010 (with effect from. 15.09.2010), limitation is prescribed and the said provision is extracted below.

"(i) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharges, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workmen nor any union of workmen is a party to dispute.

(ii) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-section (1) may, make an application directly to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(iii) The application referred to in Sub-Section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)."

It is submitted that the Petitioner was dismissed from the services of the Respondent Company on proved charge of absenteeism vide Letter No. SRP(P)/P(R)/35.A/98/620, Dated 19.03.1998 with immediate effect i.e. from 19.03.1998. It is apparently clear that there is an abnormal delay of about 18 years in raising the dispute by the Petitioner and therefore the Petition is liable to be dismissed on the ground of delay and laches. It is prayed that this Hon'ble Tribunal may be pleased to decide the delay in raising the dispute as a preliminary issue. It is submitted that the delinquent workman was dismissed on proved charge after conducting a detailed domestic enquiry duly following the principles of natural justice. It is prayed that this Tribunal may be pleased to decide the validity of domestic enquiry as a preliminary issue. In this regard, it is submitted that this Court may be pleased to permit the Respondent to produce the evidence in case it is held that the domestic enquiry is not valid. It is submitted that the Petitioner Sri Are Shankariah, Employee Code No.2838645, Ex-Coal Filler, Srirampur No.1 Incline (not Ravindra Khani No.5 Incline as stated in the Petition), Srirampur Area of the Respondent Company, was initially appointed on 09.01.1989 and worked as a Coal Filler at Srirampur No.1 Incline of Srirampur Area. While he was working in Srirampur No.1 Incline of Srirampur Area, he had put in less than 100 musters during the calendar year 1996 and remained absent to duties unauthorisedly on all other days in the year, which constituted misconduct under Company's Standing Orders No.25.25 for the misconduct committed by him which reads as follows:

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause".

The Charge Sheet No.SRP.1/4/09/97/679, dated 13.03.1997 was sent to the home address of the Petitioner as the Petitioner was not attending, and the Charge Sheet was returned undelivered by the postal authorities. In order to give a fair opportunity, the Charge Sheet-cum-Enquiry Notice was published in the "Andhra Jyothi" Telugu Newspaper dated 9.11.1997, advising the Petitioner to submit his explanation and to attend the Enquiry on 18.11.1997 along with witnesses and documentary evidence, if any, to defend his case. The Petitioner neither submitted any explanation nor attended the Enquiry. It is submitted that the enquiry was conducted ex-parte into the charge levelled against the Petitioner. The Management witnesses produced the relevant documentary evidence in support of the charge, and the Enquiry Officer on the basis of evidence adduced in the enquiry and after appreciating all the recorded evidence, submitted his report in which the Petitioner was held to be guilty of the charge levelled against him under Company's Standing Order No.25.25. It is submitted that a copy of the Enquiry Report and Proceedings were sent vide letter No.SRP.1/4/9/98/116, dated 9.1.1998 to the Petitioner to his home address through Registered Post, giving him an opportunity to make representation within 7 days of receipt of the letter. The said Registered Cover returned undelivered by the Postal authorities. Therefore, a paper publication was given in "Andhra Jyothi" dated 19.02.1998 stating that the copy of the Enquiry Report is made available at the Office of the General Manager, Srirampur (P) Area, and he may receive the same in person within one week from the date of publication, to submit his representation, if any. But the Petitioner did not turn up to take the copy of the Enquiry Report, nor submitted any representation. As the charge proved against the Petitioner and is of grave and serious in nature, the Petitioner was dismissed from the service vide Letter No.SRP(P)/P(IR)/ 35.A/98/620, dated 19.3.1998. It is further submitted that the Disciplinary Authority after going through the entire Enquiry Proceedings, and after evaluating all the evidence on record, concurred with the finding of the Enquiry Officer. Since the charge levelled and proved in the enquiry was of grave and serious in nature warranting punishment of dismissal, and after finding that there was no improvement in his attendance, and as there was no extenuating circumstances to take a lenient view, the Petitioner was dismissed from the Company's services with effect from 6.1.2005 vide Letter No. SRP(P)/P(IR)/35.A/98/620, dated 19.3.1998. It is further submitted that the Petitioner was a chronic and habitual absentee and did not put in at least 190 attendances as expected from an underground workman. Further, he remained absent from duty without sanctioned leave, sick or sufficient cause and did not bother to communicate to the unit authorities about his inability to attend to duties. The Petitioner did not at least inform or communicate the reasons of his absence to the mine authorities at any point of time, which clearly establish the fact that he was not interested in his job. If the Petitioner, as stated in his Petition, was suffering from ill health, he could have admitted in any one of the Respondent Company's Hospitals. The Respondent Company has been operating Dispensaries, Area Hospitals and Main Hospital to extend medical facilities to its employees, their dependant family members. The Petitioner, if really was suffering from health problems for himself, as alleged in the Petition, he ought to have reported sick in Colliery hospital; he ought to have requested for sanction of leave to his credit or for sanction of loss of pay leave, but without availing these channels, he chose to remain absent from duties unauthorisedly. Therefore, the management was compelled to dismiss the Petitioner, from the service of the Company with effect from 19.03.1998 on the proved charge. It is submitted that the Petitioner was initially appointed in the Company on 09.01.1989 and worked as Coal Filler at Srirampur No. 1 Incline, Srirampur Area. The Petitioner, being a permanent employee while in service, was governed by the Company's Standing Orders as were applicable to other permanent employees in the Respondent Company. It is submitted that the Petitioner was a chronic and habitual absentee and did not put in at least 190 attendances, as expected from an underground workman during the year 1996 and he had just put in less than 100 musters. Instead of improving attendance and performance the Petitioner preferred to remain absent from duty unauthorisedly. The averment of the Petitioner that he submitted reply on 19.08.1997 but the same was not considered by the Respondent Company and he was dismissed from services through Letter No.SRP(P)/P(IR)/35.A/98/620, dated 19.03.1998, is not correct. It is submitted that the Petitioner was dismissed from the Company's services with effect from 19.03.1998, on proved misconduct under Company's Standing Order No.25.25. The Petitioner claimed that he did not attend his duty due to

ill health is not correct, even if it is assumed for a moment without conceding that the Petitioner did not attend his duties due to his ill health, he could have informed the mine authorities by any nature of communication for sanction of leave and assistance, or taken treatment in any of the Company Dispensaries or Hospital having specialized medical facilities and professionals, but neither of the course was taken by the Petitioner. This clearly established the fact that it is only an afterthought to make out a defence in his favour. It is to submit that citing some or other reason for absenteeism is not sufficient but such a cause/reason should be substantiated by the Petitioner with documentary evidence. The Petitioner neither received the Charge Sheet, nor attended the Enquiry. The Petitioner had not even submitted his representation to the Enquiry Notice which was sent to him by Register Post and returned undelivered. Later on the same was published in "Andhra Jyothi" news paper. It is to submit that the Petitioner was a chronic absentee and had never been regular to duties. He was an underground employee and was expected to put in 190 actual musters per calendar year out of possible 300 working days in a calendar year. The Petitioner had put in less than 100 musters during the year 1996. The further contention of the Petitioner that since he got another 20 years of service for superannuation, removing the service of the Petitioner with more than 2 years of qualified service is arbitrary, illegal and against Principles of Natural Justice and also against the provisions of Standing Orders of the Company, is totally incorrect. If he had left over service of 20 years, the Petitioner had to be very careful and discharge his responsibilities and duties with commitment. Length of service already rendered and the period of service left over are not the criteria for initiating disciplinary action and imposing penalty. Depending upon the seriousness of the misconduct committed and the gravity of the misconduct established, penalty will be imposed. The Petitioner committed the misconduct of remaining absent to duties unauthorisedly and failed to correct himself in spite of giving sufficient opportunity; his attendance before and after issuance of Charge Sheet was found to be very poor; not complied the laid down procedure of reporting sick in Colliery Hospital; communicating inability to attend duties to the Head of the Mine and even not requested for sanction of loss of pay leave and not submitted documentary evidence in support of alleged ill health and also failed in putting in 190 musters at least. This is a clear cut indication of indifferent attitude of the Petitioner towards his employment. The action of Respondent in dismissing the Petitioner is neither arbitrary, illegal nor against the Principles of Natural Justice and also not against the provisions of Standing Orders as claimed by the Petitioner. It is to submit that the Petitioner was never regular to duties and as such the question of returning him after coming for duty does not arise. It is to submit that in the Respondent Company in a Mine in each shift 400 to 500 employees will work. Naturally among such quantum of employees, few will surely go on authorised leave or report sick and in their places management provides employment to Badlies and never the management returns an employee after booking his IN muster at the Mine but provides him job and more so the Petitioner was being a permanent employee, the question of not providing work to him does not arise at all. Now the Petitioner makes false allegations that he was not shown work and was returned whenever he went to mine for job. The Respondent Company will never have a predetermined notion against any of its employees and if at all excess manpower is found it has other legal measures to overcome such crisis. It has already introduced Voluntary Retirement Scheme (Golden Handshake); Special Female Voluntary Retirement Scheme; Voluntary Retirement Scheme (Low Productive Employees) but never used the disciplinary action of dismissal to eliminate surplus manpower. The Respondent Company never indulged in unfair labour practice and victimization as alleged by the Petitioner. In order to cover up his mistake the Petitioner is trying to launch against the Respondent Company terming the action of Respondent as "Hire and Fire" and the same is denied strongly. It is further submitted that the allegation of the Petitioner that he could not opt Rs.3,00,000/- as compensation in lieu of employment and re-option to claim compensation of Rs.5,00,000/- in lieu of dependant employment through Settlement dated 20.11.2009 is denied. It is submitted that through various agreements entered into with the recognized Unions on payment of Lump sum amount of Rs.3,00,000/- or Rs.5,00,000/ are intended for Death and Medical Unfit cases and not meant for dismissal cases. It is to submit that the Respondent Company had entered into Memorandum of Settlement to provide an opportunity to the employees dismissed on the ground of absenteeism for appointment as Badli Fillers afresh. In the Memorandum of Settlement dated 09.08.2011 arrived at with the then Recognized Union SCWU- AITUC it was agreed to review the cases of employees dismissed on account of absenteeism during the period from 01.01.2000 to 31.12.2010 and the conditions are that (1) the dismissed employee should be below 55 years as on the date of Memorandum of Settlement i.e. as on 09.08.2011; (2) the dismissed employee should have put in 190 musters if an underground employee and 240 musters if surface employee, in any two calendar years out of the 5 years prior to the year of dismissal (or) should have put in 150 musters (underground employee), 200 musters (surface employee) every year in the previous four years of dismissal year and (3) these dismissed employees will be interviewed by High Power Committee and on the basis of High Power Committee's recommendations subject to medical fitness the candidate will be given appointment as Badli Filler Underground. In the present case, the Petitioner is not satisfying the stipulations and hence his case was not considered for appointment afresh as Badli Filler. Without qualifying himself for reappointment the Petitioner cannot claim that if he is considered for re-employment as per Settlement he would have put in 20 years of service, is not tenable. It is to submit that the Enquiry Officer had held the enquiry proceedings duly following the principles of Natural Justice. The Petitioner did not participate in the enquiry and the enquiry was conducted ex-parte. Without doing so all these years, now after a lapse of 18 years the Petitioner is claiming that enquiry was not conducted properly which is an after thought and hence the same is denied. The Enquiry Officer did not obtain the thumb impressions of the Petitioner on the Enquiry Proceedings, but the Enquiry Officer conducted the Enquiry ex-parte as the Petitioner failed to attend the Enquiry. As regards the contention that the

enquiry was conducted by the Respondent without mentioning the contents is denied. In this connection it is to submit that Enquiry was conducted ex-parte as stated supra and Petitioner was given number of opportunities to represent his case, but the Petitioner failed to put forth his evidence and the Respondent Company after following fair and lawful procedure and Principles of Natural Justice dismissed the Petitioner from services with effect from 19.03.1998. It is further submitted that this Court may be pleased to permit the Respondent to produce the evidence in case it is held that the domestic enquiry is not valid. It is submitted that the concerned workman should have been more careful and conscious of his responsibilities, towards his family members and towards his job. He failed to realize his mistake in spite of giving opportunities and paid no heed to the advice of his higher authorities in regard to be regular to duties. For the fault and mistakes of the Petitioner he cannot hold the Respondent Company responsible. The allegations of the Petitioner are wholly untenable. Hence, the reference be answered in negative.

4. Heard arguments of Learned Counsel for Respondent as well as perused written arguments. Petitioner did not submit arguments.

5. **On the basis of pleadings of both the parties, following issues are to be determined:-**

- I. Whether the domestic enquiry conducted against the workman is legal and valid?
- II. Whether the Petitioner's claim due to inordinate delay and latches of 16 years has become stale and barred by time limitation?
- III. Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Distt., in terminating the services of Sri Are Shankaraiah, Ex-Coal Filler, SRP-1, Sreerampur Area with effect from 19.3.1998 is justified?
- IV. To what relief the Petitioner is entitled?

FINDINGS:

6. **Point No. I:** The validity of domestic enquiry has been held legal and valid by this Tribunal vide order dated 17.4.2023.

This Point No. I is answered accordingly.

7. **Point No. II:** Respondent counsels contended that Petitioner was dismissed from service of the Respondent company on the proved charge of absenteeism vide letter No. SRP(P)/P (IR)/35.A/98/520, dated 19.3.1998 with immediate effect i.e., from 19.3.1998. There is inordinate delay of about 16 years in raising the dispute against dismissal order by the Petitioner. Therefore, Petition is liable to be dismissed on the ground of delay and latches. It is also prayed that the issue of delay and latches in raising the dispute should be decided as preliminary issue.

8. In view of the submission made by the Learned Counsel for Respondent, perused the record. Admittedly, Petitioner was dismissed from service of the Respondent company on proved charge of absenteeism vide order No. SRP(P)/P (IR)/35.A/98/520, dated 19.3.1998 w.e.f. 19.3.1998. Reference of the dispute has been made on 25.11.2014. Since more than 16 years lapsed from the date of dismissal of the Petitioner from the service and Petitioner failed to raise his dispute within reasonable time. Whereas no explanation or reason has been furnished by the Petitioner in his petition for such inordinate delay of 16 years in raising the industrial dispute. Whereas Sec.2A(2) of the I.D. Act, 1947, Amendment Act, 2010 of September, 2010 prescribed the limitation for raising the industrial dispute i.e., before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service of the workman. Therefore, the Petitioner has raised the industrial dispute in respect of his dismissal order dated 19.3.1998 after lapse of prescribed time of three years with an inordinate delay of 13 years and no plausible explanation or reason has been furnished by him in his claim statement for such delay. Therefore, due to Petitioner's own delay or latches the claim of the Petitioner has become stale.

In this context, Hon'ble Apex Court in the case of Haryana Sate Cooperation Land Development Bank Vs. Neelam reported in 2005(5) SCC 91, have held, "that a delay of seven years in approaching the Labour Court to be relevant factor to refuse relief of reinstatement;"

Further, in the case of State of Karnataka and another Vs. Ravi Kumar reported in 2009 13 SCC 746, Hon'ble Apex Court have held, "that long delay in seeking reference of the dispute has rendered the reference State and it should have been rejected by the Labour Court."

In that case reference was sought with a delay of 15 years. Therefore, in view of the above discussion and law laid down by the Hon'ble Apex Court Petitioner's claim against in respect of his dismissal order dated 19.3.1998 has been raised after an inordinate delay of 16 years and his claim against the dismissal order dated 19.3.1998 has become stale due to how own delay and latches and same is not maintainable.

Thus, Point No.II is answered accordingly.

9. **Point No. III:** The Petitioner has taken the plea in his petition that Petitioner was appointed as an employee in the Respondent's company on 11.11.1988 and he could not attend his duties during the year 1996 due to his ill-

health. The Respondent issued a show cause notice dated 13.3.1997 and Petitioner submitted reply on 19.8.1997 but the Respondent did not consider the reply of the Petitioner and dismissed him from services through proceeding SRP(P)/P (IR)/35.A/98/520, dated 19.3.1998. It is further pleaded that Respondent did not conduct enquiry properly and no documents were given to the Petitioner and no subsisting allowance is paid to him. Further, Respondent obtained thumb impressions on enquiry report and conducted enquiry, Petitioner did not know the English language and enquiry conducted by the Respondent without mentioning contents therein is arbitrary, illegal and against to the principles of natural justice.

10. On the other hand, Respondent in his counter has refuted the allegation made by the Petitioner. Since the validity of domestic enquiry has been held legal and valid vide order dated 17.4.2023, no pleading is maintainable at this stage regarding challenge of validity of domestic enquiry. Having perused the enquiry report and order of Disciplinary Authority, there is no fault of any nature can be noticed in order of Disciplinary Authority. Once the domestic enquiry is held legal and valid, the next question arises for consideration as to whether the punishment imposed on the Petitioner is just and legal or it is disproportionate to the gravity of the charges. The Respondent counsel contended that the Disciplinary Authority after going through the entire enquiry proceeding and after evaluating the evidence on record, concurred by the finding of the Enquiry Officer, since the charge levelled and proved in the enquiry was grave and serious in nature warranting of punishment of dismissal and after finding that there was no improvement in his attendance and there was no extenuating circumstances to take a lenient view, the Disciplinary Authority has imposed upon the workman the punishment of dismissal from the company's service w.e.f. 19.3.1998.

11. On the other hand, Petitioner has pleaded that the removing of the service of the Petitioner who rendered more than 2 years of qualified service, is arbitrary, illegal and against the principles of natural justice and also against the provision of the Standing Orders of the company.

12. Perused the order of the Disciplinary Authority. It is discern from the order that the Petitioner was appointed as Coal Filler in the Respondent company and he remained absent unauthorizedly without sufficient cause during the year 1996 and had put in less than 100 musters. Whereas statutorily he is required to be present for 190 musters on duty. As his said act constituted misconduct under the company's approved Standing Orders, he was charge sheeted under the Standing Orders No.25.25. The fore said charge has been proved during the enquiry against the Petitioner. The record of the enquiry and it's connected papers and finding of the Enquiry Officer were sent to the Petitioner but despite the service, through registered post as well as of publication in the daily newspaper i.e., "Andhra Jyothi", Petitioner did not appear nor filed any explanation against the enquiry report. Therefore despite the service of show cause notice he himself did not avail the opportunity to put his defence or explanation against the proposed punishment of dismissal before Disciplinary Authority. In these circumstances, even after affording opportunity of hearing against the proposed punishment workman did not file any explanation and did not avail opportunity thus, it would be deemed that he has admitted his guilt as well as inflictment of punishment of dismissal. Thus, the Disciplinary Authority rightly imposed the punishment of dismissal upon the Petitioner in terms of violation of Standing Orders No.25.25 of the company. Moreover, there were no extenuating circumstances before the Disciplinary Authority to take a lenient view in this regard.

13. Therefore, charge against the workman of unauthorized absence from duty in contravention of the Standing Orders No.25.25 being serious in nature and keeping in view the misconduct of the unauthorized absence from the duty of the Petitioner, the order of dismissal passed against workman cannot be faulted with or it can be said to be disproportionate to the gravity of the charges/misconduct. In view of the fore gone discussion, I am of the considered view that action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Distt., in terminating the services of Sri Are Shankaraiah, Ex-Coal Filler, SRP-1, Sreerampur Area with effect from 19.3.1998 for his proved charge of violatinof Standing Orders No.25.25 is held legal and justified.

Thus, Point No.III is answered accordingly.

14. **Point No.IV:** In view of the fore gone discussion and determination under Point No.III, the dismissal order off the Petitioner is held legal and justified. Therefore, the Petitioner is not entitled to any relief.

Thus, this point is answered accordingly.

Result:

In the result the reference is answered as under:

The action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Sreerampur, Adilabad Distt., in terminating the services of Sri Are Shankaraiah, Ex-Coal Filler, SRP-1, Sreerampur Area with effect from 19.3.1998 is held legal and justified and as such, Claim petition of the Petitioner is dismissed.

Award is passed accordingly. Transmit.

Dictate to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 21st day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 सितम्बर, 2023

का.आ. 1471.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंगरेनी कोलियरी कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 94/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/08/2023 को प्राप्त हुआ था।

[सं. एल-22012/47/2018-आई.आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1471.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 94/2018**) of the **Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD** as shown in the Annexure, in the industrial dispute between the Management of **Singareni Collieries Company Ltd** and their workmen, received by the Central Government on **07/08/2023**.

[No. L-22012/47/2018 – IR (CM-II)]

MANIKANDAN. N., Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: - Sri Irfan Qamar, Presiding Officer

Dated the 23rd day of June, 2023

INDUSTRIAL DISPUTE No. 94/2018**Between:**

Sri Bandari Satyanarayana,
Telengana Trade Union Congress,
Hamaliwada, Near Ashok Talkies,
Shivaji Band Street,
Mancheria - 504208.

.....Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bellampalli Area, Goleti Township (P.O.)

Adilabad – 504292

... Respondent

Appearances:

For the Petitioner

: None

For the Respondent

: M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No.L-22012/47/2018-IR(CM-II) dated 25.10.2018 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Bellampalli Area, Goleti Township (P.O.), Adilabad Dist., in terminating the services of Sri Mulla Rajireddy, Ex-Coal Filler, Goleti-I Inc., Bellampalli Area with effect from 20.5.1998 is justified or not? If not, to what relief the applicant is entitled?”

The reference is numbered in this Tribunal as I.D. No. 94/2018 and notices were issued to the parties and has been served.

2. On the date fixed for hearing Petitioner remained absent since first date of hearing. Respondent filed vakalath.

3. Petitioner neither appeared for hearing nor filed any claim statement despite sufficient number of opportunities have been provided to him. It thus becomes crystal clear that the petitioner seems to be not interested in pursuing his case and as such a no claim award is given against the workman/petitioner. As such, a ‘No Claim’ award is passed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 23rd day of June, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 सितम्बर, 2023

का.आ. 1472.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 49/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/07/2023 को प्राप्त हुआ था।

[सं. एल-20013/01/2023-आई.आर. (सी.एम-1)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1472.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2008) of the Central Government Industrial Tribunal-cum-Labour Court, HYDERABAD as shown in the Annexure, in the industrial dispute between the Management of S.C.C.L. and their workmen, received by the Central Government on 20/07/2023.

[No. L-20013/01/2023 – IR (CM-I)]

MANIKANDAN N., Dy. Director

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD****Present: - Sri Irfan Qamar, Presiding Officer**Dated the 23rd day of May, 2023**INDUSTRIAL DISPUTE L.C.No. 49/2008****Between:**

Sri K. I. Raju.

S/o Arjaiah,

C/o Smt. A. Sarojana,

Advocate,

Flat No.G7, Ground Floor,

Rajeshwari Gayatri Sadan,

Opp: Badruka Jr. College for Girls,

Kachiguda, Hyderabad.

.....Petitioner

AND

1. The Chairman & Managing Director,

M/s. Singareni Collieries Company Ltd.,

Kothagudem, Khammam District.

2. The Director (PA & W).

M/s. Singareni Collieries Company Ltd.,

Kothagudem, Khammam Dist.

3. The Dy.SE(IE),

RG-II, M/s. Singareni Collieries Company Ltd.,

Godavarikhani, Karimnagar District.

....Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri Y. Ranjeeth Reddy, Advocate

AWARD

Sri K. I. Raju who worked as Clerk (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding dated 20.1.2003 issued by the 2nd Respondent and consequential order issued by the 3rd Respondent dated 28.1.2003 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Workman into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

It is submitted that, while Workman was working as Clerk at GDK 8 Incline, charge sheet dt.24.12.2001 was issued, alleging that, while he was working as Clerk Grade-II at RG-II Workshop, he has prepared LLTC pay sheet dt.8.4.1998 without sanction of leave/claim application by the competent authority. It is submitted that, on receipt of the above charge sheet, Workman has submitted representations dt.7-1-2002 and 7-6-2002, requesting to furnish all the relevant documents, so as to enable him to submit his reply. However, only some of the documents were permitted to be verified by the Workman and all the documents have not been furnished. Despite, as there is no other option, Workman submitted his reply dt.16.6.2002 denying the charge and also explained as to how the charge alleged against him is incorrect. Unfortunately, without considering any of the submissions made by the Workman, in a predetermined manner an enquiry was conducted. It is submitted that, the enquiry officer has not explained the

procedure of enquiry, as the Workman was not aware of the exact procedure of enquiry, he could not participate in the enquiry effectively. During the course of enquiry, the Presenting Officer examined two witnesses i.e., One Mr. Odelu and Chandraiah. However, Workman could not examine any witness, as he was not aware of procedure of enquiry. In fact, the Workman also could not cross examine the management witnesses properly, as the Workman was not aware of procedure of enquiry. Had the procedure of enquiry was explained, perhaps, the Workman could have properly examined the management witnesses and also ought to have examined witnesses on his behalf. It is submitted that, without considering any of the submissions made by the Workman the 2nd respondent issued the impugned office order dated 20.1.2003 dismissing the Workman from service. It is submitted that, during the course of enquiry, the enquiry officer wholly relied upon the alleged opinion of Finger print experts, which was obtained behind the back of the Workman. Therefore, basing on such opinion the charge alleged against the Workman cannot be held proved. It is submitted that, whenever Enquiry Officer or Presenting Officer are relying upon a particular document, the witnesses connected with such document, should be examined during the course of enquiry. In fact, any such document can be marked only through relevant witness, but not through stranger. However, in the instant case, the Finger Print Expert, who has given opinion, was not examined, so as to enable the Workman to cross examine such witness. Therefore, the findings of the enquiry officer relying upon the opinion of Finger Print Experts and the consequential impugned order of dismissal are liable to be set aside. It is submitted that, as a matter of fact, evidence on record clinchingly establish that, only with a view to hold the Workman as guilty of charges, the specimen signatures were obtained wrongly from the workmen. Further, it is also not sure whether the alleged specimen signatures belongs to the concerned workmen or not. Therefore, simply basing on the alleged opinion expressed by the Finger Print Experts, Workman cannot be held guilty of charges. It is submitted that, the charges alleged against the Workman vide charge sheet dt.24.12.2001 pertains to the 4 workmen i.e., S/Sri B.Mallesham, D.Chandraiah, T.Posham and E.Odelu and their refusal of receipt of LLTC amounts. During the course of enquiry only S/Sri D.Chandraiah and Odelu were examined and basing on their evidence, enquiry officer concluded that the charges alleged in respect of P.Posham and Mallesham were also held proved. Therefore, finding of the enquiry officer in this regard is liable to be treated as perverse and the ultimate finding arrived at by the enquiry officer, which was ultimately followed by the Disciplinary Authority, resulting in issuance of order of dismissal, are liable to be set aside. It is submitted that, there is no charge of misappropriation against the Workman. The management witnesses also did not allege that, the Workman misappropriated LLTC amounts. However, surprisingly the enquiry officer came to a conclusion that the Workman has committed misappropriation. It is submitted that, it is not for the enquiry officer, to go beyond the scope of the charge sheet. However, in the instant case, as the enquiry officer was predetermined, he held that action of the Workman is detrimental to the interests of the company. It is submitted that the LLTC would be paid to the workmen of the respondent company once in four years. For this purpose, the workmen who claim LLTC have to apply leave for 7 days. Only on such application, leave would be granted and amount of LLTC would be paid to the concerned workman. No employee, who could not avail leave would be granted LLTC amounts. In the instant case, all the concerned workmen have not only applied for LLTC but also applied for leave. The documents on record clearly shows that, all the workmen have availed leave for the purpose of LLTC and they have not disputed the said factum. If really the workmen have not applied for LLTC, the question of applying leave does not arise. Every workman would get eligibility of leave with pay, basing on their actual working days of the previous year. The leave record would be maintained by the office. As and when the workmen avail leave, the same would be deducted from their balance of leaves to his credit. In the instant case, having availed the 7 days leave towards LLTC during the respective years they have not disputed the factum of availment of leave at any point of time. Only when the Dy.CE allegedly informed them about the proposed recovery of alleged excess paid LLTC amount, the concerned workmen came up with a story of not applying or not receiving the amount of LLTC. If really the workmen have not applied or received the LLTC amount, they could have certainly asked the authorities as to why 7 days of leave was deducted from their balance of leaves. The conduct of the workmen itself shows that, only to avoid the proposed recovery, allegedly excess paid amounts they have deposed falsely. As a matter of fact, neither MW-1 nor MW-2 denied the factum of taking of LLTC amount entirely. During the cross examination, what all the management witnesses said was, they did not take the LLTC amount during April'1998. However, they have not denied the taking of amount entirely. In this regard, it is pertinent to mention that, the payments were made to the concerned workmen during the year 1998, whereas enquiry was conducted during the year 2002. Therefore, there was a gap of more than 4 years, and the concerned workman either might have forgotten the receipt of amounts or only with a view to avoid the proposed recovery, as sought to be made by Dy.CE, they might have deposed falsely. It is submitted that, if really they have not availed LLTC amount during the year 1998 block, they could have complained about the non-payment of LLTC amount and also ought to have applied for the same on any other subsequent date. In the instant case, there is no evidence on record to show that the workmen have applied for LLTC during the same block or availed the same. In the absence of any such evidence, Workman cannot be presumed to have committed misconduct. Even evidence on record clearly establish that, only on being enquired by Dy.CE, as to why the excess paid amounts should not be recovered from their salary, they alleged to have stated that they have not applied or availed LLTC. In this regard, the role of 'Dy.CE becomes important'. In the instant case, either it should be proper payment or improper payment. The question of excess payment does not arise. However, in the instant case, as can be seen from the evidence of MW-1 and MW-2 the Dy.CE summoned and informed them that they have taken excess amount of LLTC and deductions would be made from their salary. Upon threatening, the workmen stated that they

have not taken LLTC amount in April'1998. It is not known how the Dy.CE could call them and inform them about the excess amount, when there is no such excess amount. Further, it is submitted that, evidence on record would establish that the Workman was not regular pay sheet clerk, in the absence of regular pay sheet clerk, he prepared the LLTC pay sheets, as and when required by the authorities. By afflux of time, Workman as well as the witnesses might have forgotten the incidents occurred more than 4 years ago, that too, payments would be made to the workmen every month, apart from bonus, LTC, LLTC, Incentive etc. Therefore, what transpired 4 years ago could not have been properly remembered by the Workman. It is submitted that, as the workmen has not raised any objection to the findings of the objections with regard to the opinion expressed by the Finger Print Experts, it is to be deemed that, the workmen accepted the findings opinion of the Finger Print Experts. It is incorrect to contend that, Workman has not objected to the opinion of the Finger Print Experts. It is for the Presenting Officer to introduce the proper witnesses and to establish the charge through valid evidence on record. Simply because the workman has not raised any objection, the invalid evidence would not become a valid evidence. In this regard, precisely for this reason, explaining the procedure of enquiry to the delinquent employee. As a matter of fact, evidence of MW-1 and MW-2 is contrary to the charge alleged against the Workman. The MW-1 and MW-2 categorically stated that, they are not aware of who have taken their LLTC amounts. However, the evidence on record clearly establish that they have applied for leave to claim LLTC amount. There is no substantive evidence on record to show that, the concerned workmen have not applied for sanction of leave or claimed LLTC. Simply basing on the oral evidence of MW-1 and MW-2, that too, after being threatened by Dy.CE of the proposed allegedly excess paid amounts, and avoid such proposed recovery, the workmen disputed the payments made to them. If that is permitted to happen, every workman would dispute the payments made to them. It is also not uncommon in the company that, payments would be received by the workmen on behalf of their colleagues on the request of the concerned workman. In the instant case, any thing might have been happened. Therefore, there is no evidence on record to show that, the concerned workmen have not applied for LLTC. As a matter of fact, after preparation of LLTC pay sheets, the competent authority would verify and put up his signatures, thereafter the internal audit would verify the payments made to the workmen and certify the same. Therefore, in the instant case, neither the competent authority nor the internal audit section have find fault with the payments made to the workmen. Therefore, after more than 4 years, by causing threatening to the concerned workmen a false case cannot be filed against the Workman and basing on such false case Workman cannot be dismissed from service. At the cost of reiteration, charges alleged against him are false and fabricated and impugned order of dismissal is liable to be set-a-side. It is submitted that, whenever an enquiry is conducted and enquiry officer submitted his report, the Disciplinary Authority is suppose to examine the same and pass a reasoned order. In the instant case, impugned office order dt.20.1.2003 does not indicate any reasons, much less valid in nature. The impugned office order was issued in a routine and mechanical manner, as such the same is liable to be set aside. It is submitted that, an amount of Rs.58,594.90 was recovered from the NCWA VI and VII arrears and RG-II GM Employees Cooperative Credit Society towards the alleged misappropriation of amounts, with reference to the charge sheet dt.24.12.2001. Therefore, imposition of penalty of dismissal from service for the same offence amounts to double jeopardy. Assuming without admitting that, the charges alleged against the Workman are held proved rightly by the enquiry officer, even then, the circumstances under which the charges were held proved may not justify the imposition of penalty from dismissal from service, which is capital punishment in service jurisprudence. The Workman is the lone earning member in his family, consisting of old aged mother, wife and two children. Workman belongs to Scheduled Caste Community and belongs to socially and economically poor strata. Therefore, in case if this Hon'ble Court comes to a conclusion that the findings of the Enquiry Officer are proper, Workman craves indulgence of this Hon'ble Court to modify the penalty of dismissal to that of any other lesser punishment, so as to enable Workman and his family members to survive in this world. Workman is not gainfully employed elsewhere from the date of his dismissal i.e., from 28-1-2003. It is therefore prayed that this Hon'ble Tribunal may be pleased to declare the impugned order No. CRP/PER/IR/92/119 dt.20-1-2003 issued by the 2nd respondent and consequential office order No.Rc2/IED/R/2003/57 dt.28-1-2003 issued by the 3rd respondent are illegal and arbitrary and set aside the same and consequently direct the respondents to re-instate the Workman into service duly granting all other consequential benefits, such as continuity of service, back wages and all other attendant benefits.

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

The Workman was appointed in the services of the Company on 14-10-1982 as Clerk Grade-II in the Respondent's Company. On 13-01-1992 the Workman was charged with the offence under Company 's Standing Order No. 25.1 "Theft, fraud or dishonesty in connection with the Company's business or property" for manipulating the muster statements sent from the Office of Area Safety Office, Srirampur to the Office of Controller of Accounts, Srirampur, during the months of February, March, June, July, October, November and December of 1991 showing that the Workman had worked 92 days during this period though the Workman remained absent on these days. Further the Workman has drawn 8 hours over-time allowance during the month of October, 1991 though he had not worked at all. The Workman has also claimed one paid holiday allowance on 05.11.1991 on which date he did not work. On the above proved charges, the Workman was dismissed from the services of the Company with effect from 21-07-1993 vide Office Order dated 14-07-1993. In consideration of his mercy petition dated 16.11.1994, the Workman was re-appointed afresh as Grade-II Clerk, on an initial basic pay of Rs.1158/- per month vide order dated 24.11.1994. It is

submitted that the Workman while working as Pay Sheet Clerk Grade-II at Area Workshop at Ramagundam-II, the duties performed by the pay Sheet Clerk are preparation of pay sheets of workmen of NCWA cadre employees including preparation of LTC / LLTC, and making payment to them and obtain their acknowledgement on the pay sheets. It is submitted that while performing the duties, the Workman as Pay Sheet Clerk, he has prepared L.T.C. / L.L.TC. pay sheets pertaining to the N.C.W.A. employees of Ramagundam Workshop. It is submitted that Workman included the leave and LL.TC. claims of the following workmen on the date of pay sheets shown against them even though they have not applied for the same. He has further shown in the pay sheets that he has paid the amounts to those workmen. Workman has fraudulently made the leave applications, drawn the amount towards L.L.T.C, payable to them and misappropriated the same by not paying the amounts to those workmen. He has shown in the pay sheets that the said amounts were paid to them, with forged signatures/L.T.I.

Date of Pay Sheet	Name of the workman	Amount drawn by the Workman
08-04-1998	Sri D.Mallesham, General Mazdoor	Rs. 9,824.00
21-02-1998	Sri D. Chandriah. General Mazdoor	Rs.5,568.00
21-04-1998	Sri P. Pos ham, General Mazdeor	Rs. 9,824.00
21-04-1998	Sri E. Odelu, General Mardeor	Rs, 9,84.00

If the above workmen really have applied for L.L.T.C, they would have been paid. The Internal Audit Department have observed while Auditing the pay sheets that the above workmen have drawn their L.L.T.C, twice, and the amount once already drawn has to be recovered. The workers were called and informed the same by their Head of the Department. The above workmen have totally denied their drawing the amounts towards L.L.T.C. in the month of February / April 1998 and vehemently opposed that the signatures / LTIs appeared in the above pay sheets are of not theirs. Since they have denied having receipt of the above amounts as per the pay sheets and payments made in February / April 1998, the said pay sheets along with their specimen signatures / LTIs were sent to the Forensic Scientific Laboratory / Finger Print Bureau of Andhra Pradesh for their opinion. It was confirmed by them that the signatures / LTIs appeared in the paid pay sheets and leave applications are not the signatures of the above workmen. As these L.L.T.C. pay sheets were prepared and certified that the amounts therein were paid to the workmen by the Workman, the fraud and misappropriation committed by the Workman has come to surface. As the Workman's act as stated above amounts to misconduct under Company's Certified Standing Order Nos. 25(1) and 25(23) which read as follows.

"25.1 - Theft, fraud or dishonesty in connection with the employer's business or property.

25.23 -Any willful and deliberate act which is subversive or discipline or which may be detrimental to the interest of the Company. "

A charge sheet dated 24-12-2001 was issued to the Workman directing him to submit his explanation within four days of receipt of the charge sheet. It was duly acknowledged on 03-01-2002. But, the Workman has not submitted any explanation to the above charge sheet. However, a domestic enquiry into the charges leveled against the Workman has been ordered. A full-length domestic enquiry was conducted into the charges leveled against the Workman. Enquiry was commenced on 12-05-2002 and held on different dates. The Workman has fully participated in the proceedings of the enquiry. He was cross-examined by the Management Witnesses and deposed himself as witness and stated that he had no further witnesses to examine. Finally the enquiry was concluded on 23rd June, 2002. The Enquiry Officer has submitted his findings dated 14-07-2002 stating that the charges were proved and the Workman had fraudulently prepared the L.L.T.C. pay sheets in respect of the above said four workmen without their applications and the LLTC amounts were not paid to them. It was also established that the Workman has deliberately misappropriated the LLTC/LTC amounts of the above said four workmen. He said that the Workman is guilty of misconduct under Company's Standing Order Nos. 25(1) and 25(23) as alleged vide charge sheet dated 24-12-2001. A copy of the Enquiry Proceedings and findings of the Enquiry Officer were also served on the Workman vide letter dated 28-08-2002 advising him to represent against the same if any within seven days. In response to the above, the Workman has submitted his representation dated 12th November, 2002 stating that, *"I have gone through the contents of the Enquiry Report sent to me and I accept the findings of the management I also assure you that I will not commit any such mistakes hereafter and do my job to the satisfaction of my superiorsI am also praying your good self to kindly extenuate my mistake for this time."* The charges leveled and proved against the Workman are considered to be grave and serious and there are no extenuating circumstances to take a lenient view to award lesser punishment than that of dismissal, the Workman was dismissed from the services of the Company with effect from 28-01-2003 vide Order dated 20-01-2003. There is a provision in the Standing Order No. 29 that the workman on whom any of the penalties is imposed shall have the right to appeal to the authorities notified in this behalf. The appeal shall be submitted within 45 days of receipt of the Order of the punishment. The appellate authority shall dispose of the appeal within 45 days of receipt of the same. It is settled law that where departmental appeal is provided under the Rules, it should be availed before approaching the Labour Court or Tribunal for raising an Industrial Dispute. The Workman, under this provision has not made any appeal against the Order of punishment. But in the representation dated 12-11-2002 he admitted that he accept the findings of the Management and assured that he will not commit any such mistakes in

future. The Workman having voluntarily accepted his guilt vide his representation dated 12-11-2002 preferred to approach this Hon'ble Tribunal after a lapse of 5 years 4 months only to take a chance. As such, the Workman's claim is a stale claim. It is a settled law that the claim may become stale even by passage of 3 to 4 years. The workman cannot be allowed to approach the Labour Court after more than 3 years of termination of his service. Workman could not be put in on a higher pedestal than the ordinary Government Employee or Employees elsewhere that is required to challenge his termination before Civil Court within a period of 3 years. The procedural laws like estoppels, waiver and acquiescence and Doctrine of Acceptance sub silent arc applicable even to the proceedings under the I.D. Act. With regard to domestic enquiry conducted into the charges leveled against the Workman it is submitted that the principles of natural justice were complied. The Workman has fully participated in the domestic enquiry and cross-examined the Management's witnesses. At no stage the Workman pleaded violation of principles of natural justice. It is submitted that the Workman alleged that the Enquiry Officer has not explained the procedure of enquiry, as such he could not participate in the Enquiry effectively, examine any of the witnesses and he could not cross-examine the Management Witnesses properly are false and baseless. The Workman was dismissed from the services of the Company after careful consideration of the proceedings of the domestic enquiry and findings of the Enquiry Officer and also looked into his past record and found that there are no extenuating circumstances to award lesser punishment than that of dismissal from the services of the Company. It is submitted that this Tribunal may decide as to validity of a domestic enquiry as a preliminary issue and in case it is vitiated for any reason, the Respondent Management may be permitted to prove the charges leveled against the Workman before this Hon'ble Tribunal. It is submitted that the Workman made a representation dated 07-06-2002 to furnish all the relevant documents to enable him to submit his reply to the charge sheet. The Workman was permitted by the management to verify all the relevant documents and the Workman verified the same on 09-06-2002. After verification, the Workman endorsed as "seen" and put his initials to that effect. In spite of the above, the Workman has not submitted his explanation to the charge sheet as has been admitted by him in the preliminary examination held by the Enquiry Officer. It is submitted that (i) a copy of the report of the finger print experts dated 21-09-2001 with covering letter of Director, F.P.B. and (ii) report of (Opinion) APFSI of Hyderabad, on thumb impressions at Page-36 was received by the Workman before commencement of examination of the concerned witnesses. The Workman has not questioned the validity of these documents nor of their marking as exhibits. The allegations that these documents were obtained behind the back of the Workman, thus it is no more a res Integra, the connected witness should be examined during the course of enquiry, they have been marked by a stranger, the enquiry officer relied on them, consequently the impugned order of dismissal was issued as such it should be set aside, does not withstand to the test of closure scrutiny. It is submitted that the Workman neither on receipt of these documents has raised any objections over the same nor questioned the validity of these documents to mark as management's exhibits, during the course of enquiry. The Workman in his representation dated 22.11.2002 stated that I have gone through the contents of the Enquiry Report sent to me and accept the findings of the Management." Therefore, these allegations are invented after five and-half years, for raising an Industrial Dispute before this Tribunal. It is submitted that the Workman cannot find fault for obtaining the specimen signatures of the concerned workmen. It is not true that the specimen signatures were obtained with a view to implicate the Workman in a false case and held him guilty of the charges leveled against him. As the concerned workmen denied as to receipt of the LLTC amounts as mentioned in the pay sheet said to have been prepared by the Workman, their specimen signatures were obtained and sent to the Finger Prints Expert's Opinion, in order to verify the facts. The Workman's allegation that the Finger Prints Expert's Opinion can not be taken into consideration is not tenable under Law. It is submitted that it is the record that the Workman committed fraud and misappropriated the LLTC amounts pertaining to the above 4 workmen. In the enquiry proceedings the Management's witnesses deposed their evidence and marked the relevant documents as exhibits. The Workman availed the opportunity to cross-examine the Management's witnesses. The findings of the enquiry officer are fully corroborated with the proceedings of the domestic enquiry. It is submitted that the allegations of the Workman that there is no charge of misappropriation of LLTC amounts against him as such the Enquiry Officer is predetermined the findings arrived by him are beyond the scope of enquiry and they are perverse are denied. It is submitted that the Workman through forged leave applications of the above four workmen prepared LLTC pay sheet in their names. He has drawn the cash payable to them and misappropriated the same without making payment to them. The Workman has shown that the amounts were paid to the concerned workmen by putting forged signatures / LTIs. Thus, it is evident that the Workman has committed fraud in the preparation of the pay sheets and misappropriated the amounts by showing that the said amounts were paid with the forged signatures of the workmen. The willful and deliberate misconduct committed by the Workman is not only subversive of discipline but also detrimental to the interests of the Company. The findings arrived by the Enquiry Officer are corroborated with the evidence on record of the enquiry proceedings and as such the allegations of the Workman are false and baseless. It is true that the workmen avail LLTC by applying leave for seven days once in a block of four years. The averment of the Workman that the concerned workmen have applied leave and for payment of LLTC amounts and they have not disputed the fact of availing leave at any point of time is not true. Having availed the LLTC earlier the workmen are not aware of the fraud played by the Workman and drawing the LLTC amounts on their name and his misappropriation during the year 1998. It is not the presumption but it is on record that the Workman committed fraud, misappropriation and forgery in respect of four persons, with regard to their leave and LLTC amounts in the year 1998. It is true that the question of excess payment to these four workmen does not arise as the Workman committed fraud without any information to them. It is

submitted that the Dy.Chief Engineer is the Head of the Department. When it is reported that the said four workmen have drawn their LLTC amounts two times in the same block period. He called and intimated the same to them. On this they reacted and informed that they have not drawn any amounts towards LLTC in the year 1998. The Workman contended that what transpired four years ago could not have been properly remembered by him. It is submitted that it is not recalling the memory of the Workman but it is on record that the Workman unambiguously committed fraud and misappropriated the LLTC amounts by drawing the same in the name of four workmen. It is submitted, it is a fact that M.W I and M.W.2 categorically denied and stated that they are not aware who have taken their L.TC amounts. They are not aware that the Workman has drawn on their name through fraudulent means and misappropriated. It is proved that the Workman committed fraud and misappropriation. The assumptions and presumptions made by the Workman such as that sometimes their colleagues will receive payments on behalf of the workmen is an attempt to cover up his fraud and misappropriation. It is true that there are checks for passing LLTC payment but the Workman managed all these checks and committed fraud and misappropriation. Workman's allegation that the charges leveled against him are false and fabricated and impugned order of dismissal is liable to be set aside are not tenable. The allegation of the Workman that the Disciplinary Authority has not gone through the Domestic Enquiry Proceedings and findings of the Enquiry Officer, impugned order dated 20.1.2003, does not indicate any reasons and it was issued in a routine and mechanical manner are not true. It is submitted that the Workman while accepting the findings of the Management and assured that he will not commit any such mistakes in future through his letter dated 12.11.2002 requested the Management to allow him to continue his job. It is true that an amount of Rs. 35,040/- fraudulently drawn by the Workman through LLTC pay sheets in the name of four workmen and another amount of Rs. 23,554/- towards his due payable to the Co-operative Credit Society against the loan taken by him was recovered. He has not objected or protected against such recovery. Refund of embezzled amount by the delinquent workman cannot wipe out the punishment imposed on him and much less it can not be considered to be double jeopardy. That the Order of dismissal passed by the Respondent Management is liable to be set side is not tenable under law, as it was issued as a token of punishment on the grade and serious charges leveled and proved against him. Workman is put to strict proof that he was not gainfully employed elsewhere from the date of his dismissal from the services of the Respondent Company. It is submitted that the Respondent Management awarded the punishment of dismissal from the services of the Company on proved charges of fraud and dishonesty. The Workman's contention that he is lone earning member, having old mother, wife and children, belongs to Scheduled caste community etc., can not be taken as grounds for seeking lesser punishment for his proved misconduct of fraud and dishonesty. Therefore, it is prayed that the petition of the Workman be dismissed as devoid of merits.

4. The perusal of the record reveals that the domestic enquiry conducted by the Respondents in this case is held as legal and valid vide order dated 21.1.2011.

5. Heard arguments of le for both the parties. They have also filed their written submissions.

6. On the basis of the pleadings of both parties and arguments advanced, the following points emerge for determination:-

- I. Whether the departmental enquiry conducted against the Workman is legal and valid?
- II. Whether the termination order dated 20.1.2003 passed by 2nd Respondent regarding dismissal of the Workman from service is illegal and liable to be set aside as alleged by the Workman?
- III. Whether the punishment of dismissal imposed by the Disciplinary Authority vide order dated 20.1.2003 with effect from 28.1.2003 is commensurate to the charge proved against the workman or it is disproportionate to the misconduct?
- IV. To what relief the Workman is entitled?

7. **Point No. I:** Point No.I pertains to the question whether departmental enquiry conducted against the Workman is legal and valid. The validity and legality of departmental enquiry conducted against the Workman has been decided by the Court vide order dated 21.1.2011 and it has been held legal and valid.

Thus, Point No.I is decided accordingly.

8. **Points No. II:** Point No.II pertains to the question whether the dismissal order dated 20.1.2003 passed by the 2nd Respondent against the Workman terminating the services of the Workman is illegal and arbitrary. On this point Learned Counsel for the Workman submitted that while Workman was working at RG-II he used to look after various works such as Manway Clerk duty, preparation of pay sheets, etc., of the NCWA employees. While so, a charge sheet dt.24-12-2001 was issued alleging that, the Workman prepared LLTC pay sheets of three employees i.e. D.Chandraiah, P.Posham and E. Odelu and they have denied receipt of LLTC amounts. As such, a presumption was drawn, as if, the Workman has committed misconduct under the Company's Standing Order Nos.25 (1) & 25 (23). It is also submitted that on receipt of the above charge sheet, the Workman has submitted a representation dt.07-06-2002 to provide certain documents, which have not been furnished along with the charge sheet and which were essential for adjudication of the same. Thereafter, vide reply dt. 16.6.2002, the Workman has categorically pleaded that, all the workmen have applied and availed leave on various dates so as to enable them to claim

LTC/LLTC amounts. The Workman has also pleaded that, all of them were paid LTC/LLTC amounts on various dates. The Workman also requested to verify the E-Registers (Leave Registers) and pay sheets so as to arrive at a proper conclusion. But that was not provided. It is also submitted that Enquiry Officer while arriving at a conclusion about the Workman 's guilt relied upon finger print expert's opinion and report of APSFI, Hyderabad, to hold the Workman as guilty. However, none of them related to those documents were examined in the enquiry giving the Workman an opportunity of cross examination. As a result of the above, whole enquiry got vitiated and the order of dismissal passed by the competent authority basing on the report of the enquiry officer is liable to be set aside. It is further submitted that during the enquiry, except the Presenting Officer, no other witness deposed that, the Workman has committed the mistake. It is submitted that, during the relevant time, the Workman was not only performing the duties of pay sheets but also performing the Manway Clerk duty. Therefore, there is no evidence on record that, while preparing the LTC/LLTC pay sheets, the Workman has not done any misconduct as alleged in the charge sheet.

9. On the other hand the counsel for Respondent has submitted that the Workman was appointed in the services of the Company on 14-10-1982 as Clerk Grade-II in the Respondent's Company. On 13-01-1992 the Workman was charged with the offence under Company's Standing Order No. 25.1, "Theft, fraud or dishonesty in connection with the Company's business or property" for manipulating the muster statements sent from the Office of Area Safety Office, Srirampur to the Office of Controller of Accounts, Srirampur, during the months of February, March, June, July, October, November and December of 1991 showing that the Workman had worked 92 days during this period though the Workman remained absent on these days.

10. The Workman while was working as Pay Sheet Clerk Grade-II at Area Workshop at Ramagundam-II the duties performed by the pay Sheet Clerk are preparation of pay sheets of workmen of NCWA cadre employees including preparation of L.T.C/ L.L.T.C. and making payment to them and obtain their Acknowledgement on the pay sheets. It is submitted that while performing the duties, the Workman as Pay Sheet Clerk, he has prepared L.T.C. / L.L.T.C. pay sheets pertaining to the N.C.W.A. employees of Ramagundam Workshop. The Workman included the leave and L.L.T.C. claims of the following workmen on the date of pay sheets shows against them even though they have not applied for the same. He has further shown in the pay sheets that he has paid the amounts to those workmen. In fact, the Workman has fraudulently made the leave applications, drawn the amount towards L.L.T.C. payable to them and misappropriated the same by not paying the amounts to those workmen. He has shown in the pay sheets that the said amounts were paid to these workmen viz., S/ Sri D.Mallesham, General Mazdoor, D. Chandriah, General Mazdoor, P. Posham, General Mazdoor, Sri E. Odelu, General Mazdoor. If the above workmen really have applied for L.L.T.C. they were paid. The Internal Audit Department have observed while Auditing the pay sheets that the above workmen have drawn their LL.T.C. twice, and the amount once already drawn has to be recovered. The workers were called and informed the same by their Head of the Department. The above workmen have totally denied their drawing the amounts towards L. L.T. C. in the month of February / April 1998 and vehemently opposed that the signatures / LTIS appeared in the above pay sheets are of not theirs. Since they have denied having receipt of the above amounts as per the pay sheets and payments made in February / April 1998, the said pay sheets along with their specimen signatures / LTIS were sent to the Forensic Scientific Laboratory/ Finger Print Bureau of Andhra Pradesh for their opinion. It was confirmed by them that the signatures / LTIS appeared in the paid pay sheets and leave applications are not the signatures of the above workmen. As these L.L.T.C. pay sheets were prepared and certified that the amounts therein were paid to the workmen by the Workman, the fraud and misappropriation committed by the Workman has come to surface.

11. As the Workman's above stated act amounts to misconduct under Company's Certified Standing Order Nos. 25(1) and 25(23) which reads as follows.

"25.1: Theft, fraud or dishonesty in connection with the employer's business or property.

25.23 - Any willful and deliberate act which is subversive or discipline or which may be detrimental to the interest of the Company."

12. It is also submitted that a charge sheet dated 24-12-2001 was issued to the Workman, directing him to submit his explanation within four days of receipt of the charge sheet. He was duly acknowledged the same on 03-01-2002. But the Workman has not submitted any explanation to the above charge sheet. However, a domestic enquiry into the charges leveled against the Workman has been ordered. Enquiry was commenced on 12-05-2002 and held on different dates. The Workman has fully participated in the proceedings of the enquiry. He was cross-examined the Management Witnesses and deposed himself as witness and stated that he had no further witnesses to examine. Finally the enquiry was concluded on 23rd June, 2002. The Enquiry Officer has submitted his findings dated 14.7.2002 stating that the charges were proved and the Workman had fraudulently prepared the L.L.T.C. pay sheets in respect of the above said four workmen without their applications and the LLTC amounts were not paid to them. It was also established that the Workman has deliberately misappropriated the LLTC/LTC amounts of the above said four workmen. He said that the Workman is guilty of misconduct under Company's Standing Order Nos. 25(1) and 25(23) as alleged against him vide charge sheet dated 24-12-2001.

13. Further, Respondent counsel submitted that charge levelled against the Workman are considered to be grave and severe and there was no extenuating circumstances to take a lenient view towards the lesser punishment than that of dismissal and the Workman was dismissed from the services of the company with effect from 28.1.2003 vide order dated 20.1.2003. It is also submitted that though there is a provision of the appeal against the order of Disciplinary Authority but the Workman did not avail of it, filing the appeal before approaching the Labour Court or Tribunal for raising an industrial dispute. Thus, Workman has not raise any appeal against the order of punishment, but in his representation dated 12.11.2002 he admitted that, he accepts the finding of the Management and assure that he will not commit any such mistakes hereafter. Thus, the Workman has accepted his guilt voluntarily, vide his representation dated 12.11.2002, preferred to approach this Tribunal after lapse of 5 years 4 months only to take a chance. As such, the Workman's claim is a stale claim.

14. In support of his submission Respondent has placed reliance upon the decision of the Hon'ble Apex Court in **Assistant Executive Engineer, Karnataka vs. Shivalinga (2002-LLR-O-327)**, *the Hon'ble Supreme Court upheld the findings of the Labour Court which held that the abnormal delay in approaching the Labour Office would be fatal to the case and on that basis rejected the reference.*"

15. It is submitted that an unexplained long delay will render a claim stale. Further, reliance has been placed upon the decision, between **U.P.S.R.T.C. Vs. Bahu Rani reported on 2006 - SCC(I. & S) 1113**, the Apex Court, on the delay in seeking reference held that "*it is the workman concerned to show that the dispute was raised within a reasonable time and he was not responsible for any delay. Courts below must record a finding to this effect on the basis of material placed on record by the workman.*"

16. In view of the submissions made by both the counsels, perused the record.

17. The submission of the Workman regarding non-supply of documents and not providing him opportunity to produce evidence and opportunity of cross examination of the witness has been considered and decided by the court vide order dated 21.1.2011 while passing the order on legality and validity of the domestic enquiry and the domestic enquiry has already been held legal and valid. Therefore, the aforesaid contention of the Workman at this stage is not acceptable. Further, perusal of the record of enquiry proceeding goes to reveal that the delinquent workman was provided fair opportunity of cross examination of the witnesses and also for producing the evidence. Hence, the contention of the Workman is not tenable.

18. As regards the finding of the Enquiry, since in terms of charges proved against the delinquent and order of the Disciplinary Authority regarding imposition of the punishment of the dismissal to the workman, the authority have arrived at the conclusion of finding guilt of the Workman on the basis of evidence concluded during the enquiry. As far as the contention of the workman is concerned that the Enquiry Officer has examined only one management witness to prove the charges against the workman, and no other witness has been examined during enquiry. It is noteworthy to mention here that it is quality of the testimony of the witness which matters to prove any charge against the delinquent and not quantity of the witnesses. As per settled law that in criminal cases conviction of the accused can be sustained even on the testimony of sole witness, if it is found reliable and trust worthy. Whereas in this case workman failed to point out any discrepancy or contradiction in the testimony of management witness examined during the enquiry. Therefore, this plea taken by Workman is not tenable. Further, perusal of the enquiry proceeding goes to reveal that the delinquent has examined himself as a defense witness and in his cross examination he has admitted to have prepared the pay sheets regarding the aforesaid four workmen for withdrawal of the LLTC/LTC amount without obtaining any sanction order of the competent authority. Moreover, the workman during the enquiry has also moved a representation dated 12.11.2002, wherein he has accepted the finding of the enquiry and admitted the guilt that he has committed the mistake in preparation of pay sheets of the four workmen for LLTC/LTC without sanction order. Since all the four workman have denied to have received the LLTC/LTC amount from the Petitioner Workman, therefore, evidence of scientific experts regarding fingerprints and signature was obtained, to prove the fact whether all the four workman have received the LLTC/LTC amount from the workman by putting their signature or thumb impression on the pay sheet. As per finger print experts' report, signature and hand writing experts' report, it has been proved that the signature or the thumb impression affixed on the pay sheet does not belong to the workmen, i.e., S/ Sri D.Mallesham, General Mazdoor, D. Chandriah, General Mazdoor, P. Posham, General Mazdoor, Sri E. Odelu, General Mazdoor. If the workman felt aggrieved over the report of handwriting experts, he might have filed objection against such report before the Enquiry Officer or ask Enquiry Officer to summon another expert report to contradict the same in order to produce defense in evidence. But the workman did take any such steps. Therefore, he can not be permitted to raise the objection regarding finger print expert's report at this stage. Therefore, in view of the evidence as discussed above, there was sufficient evidence on record before the Enquiry Officer to find his guilt regarding the charges levelled against the delinquent workman. Since the workman in his representation dated 12.11.2002 has voluntarily admitted the contents of the enquiry report sent to him and accepted the findings of the Management, he has also admitted his guilt and assured the Management that he will not commit any such mistake hereafter and will do his job upto the satisfaction of his superiors while praying for extenuating his mistake for this time. Thus, it is clear that the termination order dated 20.1.2003 passed by 2nd Respondent regarding dismissal of the Workman from service is legal and justified.

Thus, this Point No.II is answered accordingly.

19. **Point No. III:** Now, we have to consider the question whether imposition of the punishment of dismissal upon the Petitioner is commensurate to the misconduct committed by him in contravention of the provision of Company's Standing Orders No.25.1 & 25.23 or is disproportionate to the charges levelled against him.

20. Hon'ble Apex Court in **M.L. Singla Vs. Punjab National Bank, Civil Appeal No.1841 decided on 20.9.2010** Hon'ble Apex Court have held:-

"once it is held that domestic inquiry is legal and proper the next question which arises for consideration is as to whether the punishment imposed on petitioner is just and legal or it is disproportionate to the gravity of the charges."

21. Since the domestic enquiry has been held legal and valid vide order dated 21.1.2011 and moreover, the Workman has admitted his guilt vide representation dated 12.11.2002, now, we proceed to discuss whether punishment of dismissal imposed upon the workman is disproportionate to the charges levelled against him. It is not in dispute that both the charges have been proved in domestic enquiry. One can not possibly argue that the charges were not serious in nature. In other words, the both the charges were of serious nature. As per charge No.1 workman has prepared LLTC pay sheets without sanction orders of competent authority in respect of 4 workmen i.e., S/ Sri D.Mallesham, General Mazdoor, D. Chandriah, General Mazdoor, P. Posham, General Mazdoor, Sri E. Odelu, General Mazdoor, as they have not applied for it and he also manipulated records, and withdrew their LLTC/LTC amounts by putting forged signature/thumb impression of aforesaid workmen. Thereby, he misappropriated the said amount for his own purpose. Thus, he has committed misconduct in contravention of the company's Standing Orders No.25.1 as he, committed, fraud and dishonesty in connection with the employer's business and property. Further, he was assigned the duties of preparation of pay sheets of workmen and he has admitted his guilt in his representation, therefore, he committed willful deliberate act which was subversive and indiscipline and it was detrimental to the interest of the company. Therefore, keeping in view the severeness of the charges proved and gravity of the misconduct committed by the workman, the dismissal of the workman from the service was appropriate action. Therefore, the order of dismissal passed by the Disciplinary Authority against the workman Sri K.I. Raju can not be said to be in any way disproportionate to the gravity of the charges. Moreover, it would be apposite to mention here that on the earlier occasion the Workman had also committed misconduct of drawing 8 hours over-time allowance during the month of October, 1991 though he had not worked at all. The Workman has also claimed one paid holiday allowance on 05.11.1991 on which date he did not work. On the above proved charges, the Workman was dismissed from the services of the Company with effect from 21.7.1993 vide Office Order dated 14.7.1993. In consideration of his mercy petition, the Workman was re-appointed afresh as Grade-II Clerk, on an initial basic pay of Rs. 1158/- per month vide Office Order dated 24.12.1994. The workman has not denied the above contention as made by the Respondent. Therefore, it seems that he was habitual in committing such misconduct and retention of the Workman in the service would be detrimental to the interest of the company. Therefore, in view of habitual blemish he deserves the imposition of punishment of dismissal from employment.

22. The Learned Counsel for the Respondent has placed reliance upon the decision of the Hon'ble Apex Court **U.P.State Road Transport Corporation Vs. Vinod Kumar, reported in 2007 (8) SCJ 914, wherein the Apex Court held - "... This Court in a number of judgments has held that the punishment of removal / dismissal is the appropriate punishment for an employee found guilty of misappropriation of funds, and the Courts should be reluctant to reduce the punishment on misplaced sympathy for a workman. That there is nothing wrong in the employer losing confidence or faith in such an employee and awarding punishment of dismissal. That, in such cases, there is no place for generosity or misplaced sympathy on the part of the judicial forums and interfering with the quantum of punishment."**

23. Therefore, in view of the fore gone discussion I am of the considered opinion that punishment of dismissal order of the workman passed by the Respondent is proportionate with the gravity of the charges and hence, deserves to be upheld. Therefore, I find the petition filed by the Workman is devoid of merits. It fails and is accordingly liable to be dismissed.

24. Further, it is seen that dismissal order of the Petitioner from the services, was passed by the Respondent in the year 2003 and he has raised the industrial dispute in the year 2008 by filing the petition u/s 2A(2) of the I.D. Act, 1947 after a long delay of five years.

25. Although there was no limitation period prescribed at that time for filing the petition u/s 2A(2). As per law laid down by the Hon'ble Apex Court in the case of **U.P.S.R.T.C. Vs. Bahu Rani reported on 2006 - SCC(I. & S) 1113**, the Apex Court, on the delay in seeking reference held that *"it is the workman concerned to show that the dispute was raised within a reasonable time and he was not responsible for any delay. Courts below must record a finding to this effect on the basis of material placed on record by the workman."*

26. In view of above law laid down by the Hon'ble Apex Court, the workman has not placed before the Court any justifiable explanation for delay of five years in filing the petition u/s 2A(2) of the I.D. Act, 1947. Therefore, on this count also, the Workman's petition has become stale claim and hence, it is liable to be dismissed.

Thus, Point No. III is answered accordingly.

27. **Point No.IV:** In view of fore gone discussion in Points No.I, II, & III, it held that the workman is not entitled to any relief as prayed for.

Thus, Point No. IV is answered accordingly.

ORDER

In that result, the petition is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 23rd day of May, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Workman
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 सितम्बर, 2023

का.आ. 1473.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 43/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/08/2023 को प्राप्त हुआ था।

[सं. एल-22013/01/2023-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1473.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 43/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 20/07/2023.

[No. L-22013/01/2023 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 43/2020

Ref. No. No. D/810/AB/2020/02/IRDDN

Rakesh Kumar V/s FCI

BETWEEN

1. Sri Rakesh Kumar S/o Sri Devi Prasad Village-Shekhapur P.O. Barkheda, Tehsil- Bisalpur, District-Pilibhit (U.P.)
2. Sri Rajendra Saxena (Representative) M/s Keshav Singh and Ors. T.P. No. 315, Katia Tolla, Shahajanpur (U.P.)

AND

1. The General Manager (Principal Employer) Food Corporation of India, Regional Office, T.C.3, V-Vibhuti Khand, Gomti Nagar, Lucknow (U.P.)
2. The Regional Manager (Appointing Authority), Food Corporation of India (F.C.I.), District Office, Shahjahanpur (U.P.)

AWARD

By letter No. D/810/AB/2020/02/IRDDN dated 03.09.2020 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:-

“Whether the termination of the service of Sri Shyam Kumar S/o Sri Krishna Avtar, who was engaged in Roja Depot of FCI, Shahjahanpur, (U.P.) by M/s Keshav Singh, Contractor of FCI, for the period 08.08.2008 to 23.04.2010 is proper and justified”.

If not, to what relief, the workman is entitled to?”

Accordingly on 22.10.2020 an industrial dispute No. 43/2020, registered before this Tribunal.

From the perusal of record, the position which emerge out is that in spite of several opportunities granted to the claimant/workman, he has not filed statement of claim.

Lastly on 17.01.2023 an order was passed quoted herein above.

“Today when the case was taken up workman, Sri Shyam Kumar or his authorized representative has not turned up before this Tribunal nor any statement of claim, till date, so the present reference may be dismissed”.

Sri Dharendra Singh learned counsel for the F.C.I. argued that in spite of several opportunities, no claim has been filed by claimant till date as such, keeping in view of the order dated 17.01.2023 the matter be dismissed.

Finding & conclusion:-

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 03.09.2020.

So in view of the said facts, as well as the law laid by the Hon’ble High Court in the case of V.K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194 as under:-

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief”.

In the case of M/s Uptron Powertronics Employees’ Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 208 (118) FLR 1164 Hon’ble Allahabad High Court has held as under:-

“The law has been settled by the Apex Court in case of Shankar Chakravarti V. Britannia Biscuit Co. Ltd. V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors, 1984 (49) FLR 38 and Meritech India Ltd. V. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led”.

And by the Hon’ble Allahabad High Court in the case of District Administrative Committee, U.P. P.A.C.C.S.C. Services Vs. Secretary-cum G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any

evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed”.

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and, and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

Lucknow

26.05.2023

Let two copies of this award be sent to the Ministry for publication.

नई दिल्ली, 12 सितम्बर, 2023

का.आ. 1474.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 44/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/07/2023 को प्राप्त हुआ था।

[सं. एल-22013/01/2023-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1474.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 44/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 20/07/2023.

[No. L-22013/01/2023 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 44/2020

Ref. No. No. D/862/AB/2020/51/IRDDN

Khayali Ram V/s FCI

BETWEEN

1. Khayali Ram S/o Sri Babu Ram Village-Bhopatpur, P.O. & PS- Barkheda, Tehsil- Bisalpur, District-Pilibhit (U.P.)
2. Sri Rajendra Saxena (Representative) M/s Keshav Singh and Ors. T.P. No. 315, Katia Tolla, Shahajanpur (U.P.)

AND

1. The General Manager (Principal Employer) Food Corporation of India, Regional Office, T.C.3, V-Vibhuti Khand, Gomti Nagar, Lucknow (U.P.)
2. The Regional Manager (Appointing Authority), Food Corporation of India (F.C.I.), District Office, Shahjahanpur (U.P.)

AWARD

By letter No. D No. D/862/AB/2020/51/IRDDN dated 03.09.2020 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:-

“Whether the termination of the service of Sri Khyali Ram S/o Sri Babu Ram, who was engaged in Roja Depot of FCI, Shahajanpur, (U.P.) by M/s Keshav Singh, Contractor of FCI, for the period 08.08.2008 to 23.04.2010 is proper and justified”.

If not, to what relief, the workman is entitled to?”

Accordingly on 22.10.2020 an industrial dispute No. 44/2020, registered before this Tribunal.

From the perusal of record, the position which emerge out is that in spite of several opportunities granted to the claimant/workman, he has not filed statement of claim.

Lastly on 17.01.2023 an order was passed quoted herein above.

“Today when the case was taken up workman, Sri Khayali Ram or his authorized representative has not turned up before this Tribunal nor any statement of claim, till date, so the present reference may be dismissed”.

Sri Dharendra Singh learned counsel for the F.C.I. argued that in spite of several opportunities, no claim has been filed by claimant till date as such, keeping in view of the order dated 17.01.2023 the matter be dismissed.

Finding & conclusion:-

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 03.09.2020.

So in view of the said facts, as well as the law laid by the Hon’ble High Court in the case of V.K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194 as under:-

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief”.

In the case of M/s Uptron Powertronics Employees’ Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 208 (118) FLR 1164 Hon’ble Allahabad High Court has held as under:-

“The law has been settled by the Apex Court in case of Shankar Chakravarti V. Britannia Biscuit Co. Ltd. V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors, 1984 (49) FLR 38 and Meritech India Ltd. V. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led”.

And by the Hon’ble Allahabad High Court in the case of District Administrative Committee, U.P. P.A.C.C.S.C. Services Vs. Secretary-cum G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed”.

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and, and the workman is not entitled for any relief.

Award as above.

Justice ANIL KUMAR, Presiding Officer

Lucknow

26.05.2023

नई दिल्ली, 12 सितम्बर, 2023

का.आ. 1475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय**, लखनऊ के पंचाट (संदर्भ संख्या **40/2020**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **20/07/2023** को प्राप्त हुआ था।

[सं. एल-22013/01/2023—आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 12th September, 2023

S.O. 1475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 40/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on **20/07/2023**.

[No. L-22013/01/2023 – IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 40/2020

Ref. No. D/811/AB/2020/03/IRDDN

Shyam Kumar V/s FCI

BETWEEN

1. Sri Shyam Kumar S/o Sri Krishan Avtar Mohalla-Chaurasia Ghanta P.O.- Shankar Khas, Tehsil- Sadar, District-Moradabad (U.P.)
2. Sri Rajendra Saxena (Representative) M/s Keshav Singh and Ors. T.P. No. 315, Katia Tolla, Shahajanpur (U.P.)

AND

1. The General Manager (Principal Employer) Food Corporation of India, Regional Office, T.C.3, V-Vibhuti Khand, Gomti Nagar, Lucknow (U.P.)
2. The Regional Manager (Appointing Authority), Food Corporation of India (F.C.I.), District Office, Shahjahanpur (U.P.)

AWARD

By letter No. No. D/811/AB/2020/03/IRDDN dated 03.09.2020 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:-

“Whether the termination of the service of Sri Shyam Kumar S/o Sri Krishna Avtar, who was engaged in Roja Depot of FCI, Shahajanpur, (U.P.) by M/s Keshav Singh, Contractor of FCI, for the period 08.08.2008 to 23.04.2010 is proper and justified”.

If not, to what relief, the workman is entitled to?”

Accordingly on 22.10.2020 an industrial dispute No. 40/2020, registered before this Tribunal.

From the perusal of record, the position which emerge out is that in spite of several opportunities granted to the claimant/workman, he has not filed statement of claim.

Lastly on 17.01.2023 an order was passed quoted herein above.

“Today when the case was taken up workman, Sri Shyam Kumar or his authorized representative has not turned up before this Tribunal nor any statement of claim, till date, so the present reference may be dismissed”.

Sri Dharendra Singh learned counsel for the F.C.I. argued that in spite of several opportunities, no claim has been filed by claimant till date as such, keeping in view of the order dated 17.01.2023 the matter be dismissed.

Finding & conclusion:-

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 03.09.2020.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of V.K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194 as under:-

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief”.

In the case of M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 208 (118) FLR 1164 Hon'ble Allahabad High Court has held as under:-

“The law has been settled by the Apex Court in case of Shankar Chakravarti V. Britannia Biscuit Co. Ltd. V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors, 1984 (49) FLR 38 and Meritech India Ltd. V. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led”.

And by the Hon'ble Allahabad High Court in the case of District Administrative Committee, U.P. P.A.C.S.C. Services Vs. Secretary-cum G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed”.

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and, and the workman is not entitled for any relief.

Award as above.

Lucknow

26.05.2023

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2023

का.आ. 1476.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (49/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023-आई आर (बी-II)-34]

सलोनी, उप निदेशक

New Delhi, the 13th September, 2023

S.O. 1476.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 49/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-34]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BENGALURU CAMP At HYDERABAD

DATED : 26th JULY 2023

PRESENT : **Shri Irfan Qamar, Presiding Officer**

ID No. 49/2018

APPLICANT

Sh. Anelingappa,
S/o Rangappa,
54/6, Near Chowdeshwari Temple,
Nandini Layout,
BANGALORE – 560096.

RESPONDENTS

1. Kashi Security and Consultancy Services Private
ed, No. 332, 13th Main, 6th Cross, HAL II Stage,
inagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C
BANGALORE.

Appearances

I Party : Sh. R Nagendra Naik
Advocate

II Party : 1. Sh. G L Vishwanath
Advocate
2. Sh. T R K Prasad
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted No Objection in that regard. Therefore, in view of the above Memo

for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2023

का.आ. 1477.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधक, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (50/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी.II)-33]

सलोनी, उप निदेशक

New Delhi, the 13th September, 2023

S.O. 1477.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 50/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-33]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BENGALURU CAMP At HYDERABAD

DATED : 26th JULY 2023

PRESENT : **Shri IRFAN QAMAR**

Presiding Officer

ID No. 50/2018

APPLICANT

Sh. Ravishankar,
S/o Shivalingappa,
No. 1217, 7th cross,
3rd Block, Nandini Layout,
BANGALORE – 560 096.

RESPONDENTS

1.Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.

2.The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : Sh. R Nagendra Naik
Advocate

II Party : 1. Sh. G L Vishwanath
Advocate
2. Sh. T R K Prasad
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2023

का.आ. 1478.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (51/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-32]

सलोनी, उप निदेशक

New Delhi, the 13th September, 2023

S.O. 1478.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.51/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-32]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BENGALURU CAMP At HYDERABAD

DATED : 26th JULY 2023

PRESENT : Shri IRFAN QAMAR, Presiding Officer

ID No. 51/2018

APPLICANT

RESPONDENTS

Sh. V Manjunath Kumar,
S/o V Naidu,
151, Preethinagar,
Laxmiddevinagar,
BANGALORE – 560 058.

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : Sh. R Nagendra Naik
Advocate

II Party : 1. Sh. G L Vishwanath
Advocate
2. **Sh. T R K Prasad**
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2023

का.आ. 1479.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (52/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-31]

सलोनी, उप निदेशक

New Delhi, the 13th September, 2023

S.O. 1479.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 52/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-31]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BENGALURU CAMP At HYDERABAD**

DATED : 26th JULY 2023

PRESENT : **Shri IRFAN QAMAR,**
Presiding Officer
ID No. 52/2018

APPLICANT

Sh. Kantharaju,
S/o Areve Gowda,
115, 6th Main, 6th Cross,
Mahalexminagar,
BANGALORE – 560 073

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : Sh. R Nagendra Naik
Advocate

II Party : 1. Sh. G L Vishwanath
Advocate
2. Sh. T R K Prasad
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited/ Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1480.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (53/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-30]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 53/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-30]

SALONI, Dy. Director

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BENGALURU CAMP AT HYDERABAD

DATED : 26th JULY 2023
PRESENT : **Shri IRFAN QAMAR**
Presiding Officer

ID No. 53/2018

APPLICANT

Sh. Satish J,
S/o jagannath,
1st Main, 7th Cross,
Nagasandra,
BANGALORE – 560 073.

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : **Sh. R Nagendra Naik**
Advocate

II Party : 1. **Sh. G L Vishwanath**
Advocate

2. **Sh. T R K Prasad**
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1481.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (54/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-29]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 54/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-29]

SALONI, Dy. Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BENGALURU CAMP AT HYDERABAD

DATED : 26th JULY 2023

PRESENT : **Shri IRFAN QAMAR**
Presiding Officer

ID No. 54/2018

APPLICANT

Sh. Hanumantharaju,
S/o Hanumaiah,
Manjunathanagar,
Nagasandra,
BANGALORE – 560 073.

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : **Sh. R Nagendra Naik**
Advocate

II Party : 1. **Sh. G L Vishwanath**
Advocate

2. **Sh. T R K Prasad**
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1482.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (55/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-28]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 55/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-28]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BENGALURU CAMP AT HYDERABAD

DATED : 26th JULY 2023

PRESENT : **Shri IRFAN QAMAR**

Presiding Officer

ID No. 55/2018

APPLICANT

Sh. Gopal S K,
S/o Karianna,
Nelagadanahalli,
BANGALORE – 560 073.

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : **Sh. R Nagendra Naik**

Advocate

II Party : **1. Sh. G L Vishwanath**

Advocate

2. Sh. T R K Prasad

Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1483.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (56/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-27]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 56/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-27]

SALONI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT****BENGALURU CAMP AT HYDERABAD**

DATED : 26th JULY 2023

PRESENT : **Shri IRFAN QAMAR**

Presiding Officer

ID No. 56/2018**APPLICANT**

Sh. Narayanappa,
S/o Siddiah,
303, 6th Cross, 1st Main,
Nagasandra,
BANGALORE – 560 073.

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : Sh. R Nagendra Naik
Advocate

II Party : 1. Sh. G L Vishwanath
Advocate
2. Sh. T R K Prasad
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1484.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (57/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-24]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1484.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 57/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B-II)-24]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BENGALURU CAMP At HYDERABAD**

DATED : 26th JULY 2023

PRESENT : Shri Irfan Qamar, Presiding Officer

ID No. 57/2018

APPLICANT

Sh. Narasimha Murthy,
S/o Narasimhayya,
215, Manjunathanagar,
BANGALORE – 560 073.

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : Sh. R Nagendra Naik
Advocate

II Party : 1. Sh. G L Vishwanath
Advocate
2. Sh. T R K Prasad
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1485.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (60/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-25]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 60/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-25]

SALONI, Dy. Director

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BENGALURU CAMP AT HYDERABAD

DATED : 26th JULY 2023

PRESENT : **Shri IRFAN QAMAR**
 Presiding Officer

ID No. 60/2018

APPLICANT

RESPONDENTS

Sh. Rajanna M,
 S/o Maranna,
 125/844, 1st Cross,
 Near Anjaneya Temple,
 Mallasandra, T D Halli,
 BANGALORE – 560 057.

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE-560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : **Sh. R Nagendra Naik**
 Advocate

II Party : 1. **Sh. G L Vishwanath**
 Advocate
 2. **Sh. T R K Prasad**
 Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1486.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (59/2018) प्रकाशित करती है।

[सं. एल-39025/01/2023- आई आर (बी-II)-26]

सलोनी, उप निदेशक

New Delhi, the 14th September, 2023

S.O. 1486.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 59/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-26]

SALONI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BENGALURU CAMP AT HYDERABAD**

DATED : 26th JULY 2023
PRESENT : **Shri IRFAN QAMAR**
Presiding Officer

ID No. 59/2018

APPLICANT

Sh. Ashok Birdar,
S/o Ramanna Gowda,
1553, 4th Cross,
T D Halli,
BANGALORE – 560 053.

RESPONDENTS

1. Kashi Security and Consultancy Services Private Limited, No. 332, 13th Main, 6th Cross, HAL II Stage, Indiranagar, BANGALORE – 560 038.
2. The General Manager, Canara Bank, Head Office, J C Road, BANGALORE.

Appearances

I Party : **Sh. R Nagendra Naik**
Advocate
II Party : 1. **Sh. G L Vishwanath**
Advocate
2. **Sh. T R K Prasad**
Advocate

1. The petition is filed under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the 1st Party workman / former employee of the Kashi Security and Consultancy Services Private Limited / Canara Bank who is Discharged from service w.e.f. 31.03.2017 by both the Respondents.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Memo of Withdrawal alongwith Affidavit stating that an out of Court settlement has been arrived with the Respondent No. 1 and they do not have any further claim against both the Respondents. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the records, Applicant has filed Memo for Withdrawal dated 09.07.2023 in the present matter voluntarily. The Respondents have submitted no Objection in that regard. Therefore, in view of the above Memo for Withdrawal is allowed and the Petition filed by the Petitioner under Section 2A(2) of ID Act is dismissed as withdrawn in terms of the settlement arrived out of the Court accordingly. No Claim Award is passed. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 26th July 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1487.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फ्रंटलाइन (एनसीआर) बिजनेस सॉल्यूशन प्रा. लिमिटेड और अन्य, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 90 OF 2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/162/2015-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1487.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 90 OF 2015) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Frontline (NCR) Business Solutions Pvt. Ltd and others, and The Worker/Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/162/2015 -IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Present: Justice K. D. Bhutia, Presiding Officer.****REF. NO. 90 OF 2015****Parties:** Employers in relation to the management of**Frontline (NCR) Business Solutions Pvt. Ltd and Others****AND****Their Workmen Union****Appearance :**

On behalf of Management	:	
M/s.Frontline (NCR) Business Solutions Pvt. Ltd.	:	Absent
On behalf of M/s.Chennai Network Infrastructure Ltd.	:	Absent.
On behalf of M/s. S&IB Services Pvt. Ltd.	:	Mr.Sushil Karmokar, Adv.
On behalf of Union	:	Absent.

Dated 30TH MAY, 2023.**AWARD**

Today has been fixed for filing show cause by the workman/Union. Unfortunately, neither the workman whose cause is involved in the present reference case nor the Purva Medinipur Zela Security Service & Allied Workers Union (CITU), which has espoused the present dispute are found absent when the matter is called. Employer M/s.Frontline Business Solutions Pvt. Ltd and M/s. Chennai Network Infrastructure Ltd., are also found absent. The contractor employer M/s.S & IB Services Pvt. Ltd is represented by its learned counsel Mr.Sushil Karmokar. The Central Government, Min. of Labour vide its Order No. L-42011/162/2015-IR (DU) dated 02.11.2015 has referred the following dispute for adjudication to this Tribunal.

“Whether the action of management of M/s.Frontline (NCR) Business Solutions, contractor of M/s.Chennai Network Infrastructure Limited is justified by terminating the service of Shri Uttam Kumar Bera is legal and / justified? If not, what relief the workmen are entitled to? “Whether the present contractor M/s S&IB Services Pvt. Ltd is justified by denying reinstatement u/s 25(H) of ID Act, 1947. If not what relief the workman are entitled to?”

In the record, there is only Statement of Claim filed by the Union and Written statement filed by S&IB Services Pvt. Ltd but there is neither oral or documentary evidence to substantiate and prove the claim of the Union/Workman.

Therefore, this Tribunal is of view, uncorroborated claim statement is not sufficient to decide the issue under reference.

The record shows that union/workman has stopped putting their appearance from 06.5.2019. Non-appearance of the union/workman since for last four years, a presumption can be drawn that they are not interested to pursue and proceed further with the dispute they have espoused.

In view of the above, no dispute award is passed.

Reference case no.90 of 2015 is disposed of.

Justice K.D.BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1488.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स लोकेनाथ बिल्डर्स, पश्चिम बंगाल, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 21 OF 2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-14011/1/2022-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1488.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. **21 OF 2022**) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Lokenath Builders, West Bengal, and The Worker/ Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-14011/1/2022-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 21 OF 2022

Parties: Employers in relation to the management of

M/s Lokenath Builders, West Bengal

AND

Their Workmen/ Union

Appearance:

On behalf of Management: M/s Lokenath Builders, W.B. : Present

On behalf of the Workmen : None.

Dated 15th March, 2023

AWARD

The representative of the Management of Binnaguri Cantonment, Station Headquarter is present and who files hazira.

None appears from the side of Union and fails to file show-cause as directed.

Therefore, it can be assumed that the union which had put its appearance on 08.12.22 through authorised representative and as well by its lawyer is no more interested to pursue the following dispute espoused by it.

The Ministry of labour vide its Order No. L-14011/1/2022 (IR (DU)) dated 11.04.22 has referred the following issue:

“Whether the demand of Co-ordination Committee of Defence Civilian Workers, Darjeeling for reinstatement of the services of Shri Sagar Thapa and 8 others (list attached) by the management of M/s Lokenath Builders, Alipurduar (W.B) is proper, legal and justified? If yes, to what relief the disputant workers is entitled?”

Since the union is no longer pursuing the matter and even fails to file show-cause as ordered, it can be assumed that no longer it has grievance against the Principal Employer as well as the Contractor Employer.

Accordingly, no dispute award is passed and reference case no. 21 of 2022 is disposed of.

Send copy to the Ministry for doing needful.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1489.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्वांटम ग्लोबल इन्फ्राटेक (पी) लिमिटेड बीसी-200, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 14 OF 2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/15/2020-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1489.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 14 OF 2020) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Quantum Global Infratech (P) Ltd BC-200, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/15/2020 -IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 14 OF 2020

Parties: Employers in relation to the management of

Quantum Global Infratech (P) Ltd BC-200

AND

Their Workmen

Appearance :

On behalf of Management: Ms Indus Tower : Advocate S.K. Singh.

On behalf of the Workmen : Sri Joy Deb Kanp (Workman)

Dated 9th March, 2023**AWARD**

The Management of M/s Indus Tower put appearance through Ld. Advocate S.K. Singh and others and who file Vakalatnama.

The concerned workman Sri Joy Dev Kanp files petition supported by an affidavit and Xerox copy of his voter card and where he has prayed for dismissal of the present reference case as dispute has been settled outside the tribunal. His employer has reinstated him in the job. Thus, he has prayed for passing no dispute award. Considered.

The Govt. of India vide letter No. L-42011/15/2020 (IR (DU) dated 17.07.2020 has referred the following dispute for adjudication:

“Whether the demand of the Purv” Medinipur Zela Security Service & Allied Workers Union vide letter No. Nil dated 31.07.2018 to for reinstatement of Shri Joy Deb Kanp with previous service conditions and back wages is proper, legal and justified? If yes, what relief Shri Joy Deb Kanp is entitled to and from which date? What other directions, if any, are necessary in the matter?”

Since, the workman has already been reinstated by the Management/ by his employer and he does not want to pursue with the present case anymore and as such, the present Reference Case No. 14 of 2020 is disposed of.

No dispute Award is passed accordingly.

Send copy to the Ministry for doing needful.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1490.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, आरती कॉटन मिल्स, दासनगर, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 20 OF 2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/23/2020-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1490.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 20 OF 2020) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Arati Cotton Mills, Dasnagar, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/23/2020-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA**

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO.20 OF 2020

Parties: Employers in relation to the management of

General Manager, Arati Cotton Mills, Dasnagar

AND

Their Workmen

Appearance :

On behalf of Management : Present

On behalf of the Workmen : None

Dated 10th March, 2023**AWARD**

The Management of M/s Arati Cotton Mills is found present through its Ld. Counsel. On the other hand, all five Unions who have espoused the present dispute have failed to appear inspite of due service of notice of appearance sent to them by Speed Post as per track report.

Record shows the Authorized Representative of those five unions have failed to put their appearance since the day this Tribunal has received the present reference case from the Ministry of Labour on 25.09.2020 and inspite of having received notice of reference sent to them vide Regd. Post dated 04.11.2020.

Such conducts as the part of the five unions prove that they are no longer interested to pursue the dispute may be they no longer have any grievance against the Management.

The Govt. of India, through the Ministry of Labour vide Order No. L-42011/23/2020-I.R (DU) dated 27.07.2020 has referred the following dispute for adjudication:-

- (1) Whether the demand of the Union to regularize the services of contract workers (list of 412 workers attached) in a phased manner in the establishment of M/s Arati Cotton Mills (principal employer) through the contractors mainly M/s Tapsai Dhara & M/s M.M. Mondal is proper, legally tenable & /or justified? If yes, what relief these workers are entitled to and what other direction, if any are necessary in the matter?
- (2) Whether the demand of the Union to consider a hide in wage amounting to Rs,100/- per day in addition to the minimum wage as per State Govt. Notification as prevalent in the Industry Keeping in view the nature of work being performed by the contract workers is proper, legally tenable and justified? If yes, what relief the said workers are entitled to and what other direction, if any, are necessary in the matter?

In the above, the present reference case No. 20 of 2020 is disposed of. No dispute Award is passed accordingly.

Send copy of Award to the Ministry.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1491.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, बीएसएनएल टेलीकॉम फैक्ट्री, कोलकाता,, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 23 OF 2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-40011/17/2020-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi the 14th September, 2023

S.O. 1491.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 23 OF 2020) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief General Manager, BSNL Telecom Factory, Kolkata, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-40011/17/2020-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 23 OF 2020

Parties: Employers in relation to the management of

The Chief General Manager, BSNL Telecom Factory, Kolkata

AND

Their Workmen

Appearance :

On behalf of Management, BSNL : Absent

On behalf of the Workmen/Union : Absent

Dated 18th July, 2023

AWARD

The Union which has espoused the present dispute fails to put appearance despite due service of notice upon it.

No one appear on behalf of the Management B.S.N.L. when the matter is called.

None appearance of Union despite having knowledge of the present reference case an inference can be drawn that either it is no more interested to proceed with the dispute or it has no more grievance against the Management of B.S.N.L. over the issue under the reference.

Be that as it may, the Central Govt., Ministry of Labour vide order No. L-40011/17/2020-IR(DU) dated 19.10.2020 has referred the following dispute U/s 10(I)(d) & (2A) of the I.D. Act as follows:-

“Whether the demand of the National federation of Telecom Employees, Telecom factory Circle, Kolkata to regularise the strike period from 18.02.2019 to 20.02.2019 as sanctioned leave based on the earlier precedence of the management of BSNL, Kolkata and allow the payment of deducted wage to the workers is proper and legally tenable under I.D. Act, 1947? If yes, what relief the workmen are entitled to ? What directions, if any, are necessary in the matter ?”.

Unfortunately, there is no iota of materials in the record to decide the above issue.

In view of the above no dispute award is passed and accordingly Reference Case No. 23 of 2020 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1492.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स टेक्नो सेवा प्रदाता वोडाफोन आइडिया लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 09 OF 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल -40011/8/2019-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1492.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 09 OF 2019) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Techno Service Provider of Vodafone Idea Ltd, and The Worker /Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-40011/8/2019-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 09 OF 2019

Parties: Employers in relation to the management of

Vodafone Idea Ltd.

AND

Their Workmen/ Union

Appearance:

On behalf of Management: M/s Techno Service : Mr. Subhajit Roy

On behalf of the Workmen : None.

Dated 16th May, 2023

AWARD

Mr. Subhajit Roy, a staff and Authorised Representative of M/s Techno Service Provider of Vodafone Idea Ltd. is present.

Unfortunately, the Union which has espoused the case of the retrenched contractor workmen and who have not been provided compensation or paid wages at minimum rate has failed to appear.

Record shows that notice of reference sent to it was duly received by it as per A.D. Card dated 01.06.2019 and which prove that Union is well aware of the present dispute raised by it before Labour Commissioner (Central) being referred to this Tribunal by the Govt. of India, Ministry of Labour for adjudication.

So, non-appearance of the Union and its failure to file Claim Statement give rise to a presumption that it is no more interested to pursue with the dispute raised by it or it no more has any grievance against the Contractor Employer for non-adhering to minimum wage or not providing retrenchment benefits and compensation to their retrenched employee of the contractor.

Therefore, there is nothing on record to adjudicate the issue “Whether the action of the management of M/s Vodafone Idea Ltd., Kolkata and their service provider M/s Telecom Services in denying the payment of retrenchment benefit to the concerned workmen is legal or justified? Whether the central minimum rate of wages is applicable in respect of workers deployed on outsourcing basis in M/s Vodafone Idea Ltd. is legal or justified? If not, what relief the concerned workmen are entitled to?” And which has been referred vide Order No. L-40011/8/2019-IR (DU) Dated 02.05.2019 to this Tribunal for adjudication.

In the above, no dispute award is passed. Accordingly, Reference No. 09 of 2019 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1493.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक (व्यक्तिगत), एंड्रयू यूल एंड कंपनी लिमिटेड, कोलकाता, के प्रबंधन के संबंधित नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 15 OF 2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/175/2021-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1493.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. **15 OF 2022**) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director (Personal), Andrew Yule and Co. Ltd., Kolkata, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/175/2021-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 15 OF 2022

Parties: Employers in relation to the management of

The Director (Personal), Andrew Yule and Co. Ltd., Kolkata

AND

Their Workmen

Appearance :

On behalf of Management : Present

On behalf of the Workmen : None

Dated 13th March, 2023

AWARD

Today too the Representative of the Union is found absent, when the matter is called, while Ld. Advocate from the side of the Management is found present.

The record shows it was the Union who has raised the following dispute before the Government and who has referred the same to this Tribunal for adjudication vide Order No. L-42011/175/2021-IR (DU) dated 08.02.2022. The issue involved is “Whether the action of the management of Andrew Yule & Co. Ltd., Kolkata in treating their two units namely 1. Andrew Yule and company Ltd. Electrical Kolkata Operations. Switchgear Unit, and 2. Andrew Yule & Company Ltd., Electrical Kolkata Operations, Brentford Unit Functioning as two (2) factories under the same management M/s. Andrew Yule & Company Ltd. in same locality with unified balance sheet for closure of the same under Industrial Disputes Act 1947 and Rules framed thereunder is proper, legal and justified? If not, to what reliefs the disputant Brentford Electric (India) Ltd. Workmen’s Union, Kolkata are entitled to and what other directions are necessary in the matter?”

Unfortunately, the Union which has raised such dispute fails to appear and proceed with the hearing of the dispute raised by it inspite of having received notice of this Reference Case sometime in the month of September, 2022 as per postal acknowledgement card.

Therefore, from such conduct of the Union, it can be safely assumed that it no longer wants to pursue the dispute or it has no more grievance against the Management.

Accordingly, No dispute Award is hereby passed and Reference Case No. 15 of 2022 is disposed of.

Send copy of Award to the Ministry.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1494.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खरदाह जूट मिल्स लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 52 OF 2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/98/2015-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1494.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. **52 OF 2015**) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Khardah Jute Mills Ltd, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/98/2015-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 52 OF 2015

Parties: Employers in relation to the management of

Khardah Jute Mills Ltd

AND

Their Workmen

Appearance :

On behalf of Management : Absent.

On behalf of the Workmen : Absent.

Dated 29.05.2023

AWARD

The management of Khardah Jute Mills Ltd and National Jute Manufacturing Corporation Ltd and the Union are found absent when the matter is called. The union which has espoused the dispute too is found absence. Record shows Union had put its appearance through its General Secretary Mr. Karthi Ghosh and has filed Claim Statement. But the management despite of due service of notice upon it had failed to appear. But record shows the Union too has failed to put its appearance and proceed with the hearing of this case since 29.4.2000. Therefore, a presumption can be drawn that the Union is no more interested to proceed with the dispute raised by it.

The Central Government, Min. of Labour order No. L-42011/98/2015-IR(DU) dated 01.9.2015 has referred the following issue for adjudication by this Tribunal.

“Whether the action of the management of National Jute Manufacturing Ltd (NJMC Ltd) in closing down the Khardah Jute Mill resulting in termination of the services of 1074 nos. of contractual workers without considering the National Jute Manufacturing Corporation Ltd. Permanent Employees & Workers Union is legal and/or justified? If not what relief workmen are entitled to?”

None appears for the Union and its failure to proceed with the hearing of the case by adducing evidence shows that union is not interested in pursuing the dispute raised by it.

That apart, I do not find materials to corroborate the content of claim statement filed by the union. In the above, no dispute award is passed.

Accordingly, Ref. No. 52 of 2015 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1495.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राष्ट्रीय फैशन प्रौद्योगिकी संस्थान, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 07 OF 2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/63/2016-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1495—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. **07 OF 2017**) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **National Institute of Fashion Technology, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/63/2016-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 07 OF 2017

Parties: Employers in relation to the management of

National Institute of Fashion Technology and another

AND

Their Workmen/Union

Appearance :

On behalf of management National

Institute of Fashion Technology : Mr. Anirudh Dutta, Adv.

On behalf of management M/s. Vishali

Security Investigation (P) Ltd. : Absent.

On behalf of Union : Absent.

Dated 30th May, 2023

AWARD

The management of National Institute of Fashion Technology is represented by its learned counsel Anirudh Dutta. None appears from the side of contractor employer M/s. Vishali Security Investigation (P) Ltd and the Union of All Bengal Security & Allied Workmen Union, when the matter is called.

The record shows notice of this case was duly served upon all the three parties in the month of April 2018 as per AD card lying in the record. Further undelivered enveloped addressed to the General Secretary of the Union shows that the General Secretary refused to accept the notice of this case sent through registered post. There is an endorsement to that effect in the order sheet dated 26.7.2018. It is settled law refusal is a good service. Therefore, it is seen the Union which espoused the present dispute inspite of having knowledge of the present reference case for the reason best known to it has failed to pursue the same.

The record further shows that one of the workman Renuka Patra had filed Statement of Claim on 05.9.2019 and she was represented by Mr. Saibal Mukherjee, Ld. Counsel. The case has been fixed for filing rejoinder by the Union. The Union/Renuka Patra has failed to take any step thereafter Record shows since 04.3.2020, the union has stopped appearing before this Tribunal and proceed further with the hearing of the case. The Union/Renuka Patra has failed to produce any evidence to substantiate the contention made in her claim statement. Therefore, there is nothing in the record to decide the issue. under reference save and except the uncorroborated claim statement.

The Central Government, Min. of Labour Order No. L-42011/63/2016-IR(DU) dated 22-12-2016 following issue was referred to this Tribunal for adjudication:—

“Whether the action of the management of M/s. Vaishali Security Private Limited an agency of National Institute of Fashion Technology, Kolkata in terminating the services of Smt. Renuka Patra and Sri Manoj Kumar Singh, Security Guards without notices are legal and justified? If not, to what relief the concerned workman are entitled to?”

In view of the above no dispute award is passed and reference no. 07 of 2017 is disposed of.

Justice K.D. BHUTIA Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1496.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम फैक्टरी, कलकत्ता, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 08 OF 1990) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-40011/2/80-डी-II(बी)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1496.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 08 OF 1990) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Telecom Factory, Calcutta, and The Worker /Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-40011/2/80-D-II (B)]

D .K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 08 OF 1990

Parties : Employers in relation to the management of

Telecom Factory, Calcutta

AND

Their Workmen/union

Appearance :

On behalf of the Management : Advocate Mr.Rohan Raj

On behalf of the Workmen/union : Advocate Mr.Saibal Mukherjee

Dated: 30th May, 2023

AWARD

This is a dispute in between Telecom Factory, Calcutta under India Post and Telegraph and its galvanizers.

This reference case has a long chequered history. All India Post and Telegraph Industrial Workers Union had raised a dispute challenging the de-categorization of galvanizers/ pickers who were posted at Calcutta Telecom Factory from skilled to unskilled and for merging of pay scale of Rs.75-110 and scale Rs.85-128 to scale of Rs. 210-290 in 3rd Pay Commission w.e.f. 01-01-1973 as it is their contention they were already upgraded to the skilled categories by the management of Telecom Factory, Alipur, Calcutta vide work note no. 5918 dated 11-06-1971, before the Govt. of India. But who refused to refer the dispute for adjudication before the Industrial Tribunal.

Thus finding no other alternative they moved the Hon'ble High Court and filed a writ petition No.132374 of 1982 and which was disposed of on 10-01-1989. The Hon'ble High Court while disposing the writ petition no.132374 of 1982, directed the Govt. to refer the dispute raised by the union to an appropriate Tribunal for determination whether the galvanisers working in the Telecom Factory, Calcutta are to be deemed as skilled workers or not.

Thus, as per the direction of the Hon'ble High Court the Central Govt. in exercise of power conferred by section 10(1) (d) of the Industrial Dispute Act, 1947 referred the following issue to this Industrial Tribunal for adjudication vide Ministry of Labour Order No. L-40011 /2/ 80- D-II (B) dated 10-04-1990.

“Whether the demand of All India Post and Telegraphs Industrial Workers Union for treating the galvanisers working in the Telecom Factory, Calcutta as skilled workers and also allow them such emoluments and benefits on categorisation as skilled workers is justified. If yes, to what relief the workmen concerned are entitled and from what date?”

So, it appears the galvanizers working at Telecom Factory, Calcutta have been fighting this legal battle for more than 40 years. In between several events and developments had taken place.

On separation of Department of Telecommunication from the Department of Post and Telegraph, Department of Telecom was responsible for running telecom services in the entire country. The Govt. of India corporatized the operation wing of Department of Telecom on 01-10-2000 and named it as B.S.N.L. BSNL operates as public sector under the ownership of Department of Telecommunication. Therefore, All India Post and Telegraphs Industrial Workers Union which has espoused the dispute of galvanisers working in Telecom Factory, Calcutta after incorporation of BSNL changed its nomenclature and renamed itself as BSNL Employees Union.

However, it is the case of the Union that Galvanisers working in Telecom Factory at Alipur, Calcutta were originally categorised as Semi-Skilled workmen in the pay scale of Rs.75-110 along with special pay of Rs.5/- per month. On introduction of semi-mechanized system in the factory w.e.f. 01-09-1971, they galvanisers working there were categorized as skilled workmen in the pay scale of Rs.85-128. That on up gradation and revision in their pay scale, they were not allowed to draw special pay of Rs.5/- which was otherwise paid to them as unskilled workmen in pay scale of Rs.75-110. They were upgraded from unskilled category with new pay scale of Rs.85-128 on the strength of work note no.5918 dated 11-06-1971, issued by the management of Calcutta Telecom Factory at Alipur.

It is their case that in view of new pay commission in terms of Central Civil Service (Revision of Pay) Rules, 1973 both the scale of Rs.75-110 and Rs.85-128d were merged and replaced by a new scale of Rs.210-290 w.e.f. 01-01-1973. They have alleged that they have been illegally de-categorized as unskilled from skilled and deprived them of special pay of Rs.5/- per month to which they were otherwise entitled to earlier as semi-skilled workmen.

The Union brought to the notice of the Director General of Post and Telegraphs, vide its letter dated 14-05-1980 about up gradation of Galvanisers from skilled to unskilled and they have demanded fixation of their pay in the scale of Rs.260-400.

It has been contended, once they had been categorised as skilled workmen they cannot be reverted back to semi-skilled category.

The Central Govt. appointed a Central Trade Review Committee for the purpose of considering the various anomalies in categorisation of different class of employees. Such committee submitted a report in the year 1983 recommending the Galvanisers should be placed in skilled category in the pay band of Rs.260-400, but such recommendation was ignored by the management. Thus, the Union has claimed Galvanisers of Telecom Factory, Calcutta be categorised as skilled workmen w.e.f. 01-09-1971 and fixed their pay scale at Rs.260-400 in accordance with the recommendation of Central Trade Review Committee considering them as skilled workmen.

The management in its written statement has stated Galvanisers employed in Telecom Factory were brought under the scale of pay of Rs.35-60 as semi-skilled workmen w.e.f. 01-01-1947 with special pay of Rs.5/- per month as per First Pay Commission recommendation. Accordingly, an order to that effect was issued by the Directorate (Director General), Post and Telegraph, New Delhi on 27-05-1950.

During 2nd Pay Commission, pay of Galvanisers was revised to the scale of Rs.75-110 from Rs.35-60 with special pay of Rs.5/- per month. The Galvanisers working in Calcutta Telecom Factory remained in the said scale till 31-08-1971. On introduction of semi-mechanized system in the galvanising shop a settlement was entered between the **local management and the Union**, Galvanisers were provisionally promoted to the category of skilled workmen and fixed their scale of pay of Rs.85-128 w.e.f. 01-09-1971 and withdrew the special pay of Rs.5/- per month as recommended by 2nd Pay Commission.

However, during 3rd Pay Commission both scales of Rs.75-110 and Rs.85-128 were merged and new pay scale was fixed at Rs.210-290 w.e.f. 01-01-1971. The 3rd Pay Commission categorised the Galvanizers as semi-skilled workmen. The recommendation of the 3rd Pay Commission was accepted by the Govt. of India and also acted upon. The Galvanisers working in Calcutta Telecom Factory raised no objection against the revised pay scale. Thus, it is prayed for dismissal of the reference.

The Union in order, to prove its claim and case has examined one Sri Satyaranjan Chandra, but the Union has failed to produce him to adduce further evidence and to face cross examination. Therefore, this Tribunal is unable to take into consideration the part evidence of Sri Satyaranjan Chandra and treated the same as expunged.

Union has examined Sri Ganesh Ghosh as W.W. 2. The Union has produced 9(nine) documents which have been marked as Exhibit-W.1 to W.9 about which I shall be discussing in the later part of this award.

The management has examined Sri Biswanath Bhattacharya, Assistant General Manager, Telecom Factory, Gopalpur, South 24 Parganas as M.W.1. From the side of the management 3(three) documents have been produced which have been marked as M.1 to M.3.

From the claim statement of the Union, it appears the dispute relates to degradation of Galvanisers working at Calcutta Telecom by categorising them as semi-skilled workmen and fixing their pay scale at Rs.210-290 by 3rd Pay Commission, when the Galvanisers were already categorised as skilled workmen by the local management of Calcutta Telecom Factory on introduction of semi-mechanized system in the galvanising shops by issuing a work note no.5918 dated 11-06-1971 and when the scale of those Galvanisers who have been promoted to the skilled category was also given benefit of the scale of Rs.85-128.

It is admitted fact that 3rd Pay Commission was given effect from 01-01-1973. Surprisingly, the Union has challenged the recommendation made by 3rd Pay Commission and for categorising Galvanisers as unskilled workmen and accordingly fixing lower pay scale, only sometime in the year 1982. A question arises, why such delay in raising the dispute? It is true law of limitation does not apply in Industrial Dispute, but it should be raised as soon as possible after they have been arisen.

It is interesting to note, further the Union heavily relied on the report submitted by the Central Trade Review Committee in the year 1983 and which has recommended Galvanisers as skilled workmen and recommended pay band of Rs.260-400.

It is a matter of common knowledge that pay commission is set up by Govt. of India and give its recommendation regarding changes in the salary structure of its employees. Pay Commission is set up on a regular basis to review and make recommendation on the work and pay structure of a Civil and Military Division of Govt. Of India. Normally Commission is given 18 months' time from the date of its constitution to make its recommendation. The Commission issue notice inviting various stake holders, interested persons, staff unions, Ministers to submit their Memorandum before passing the final recommendation. It is equally true the Govt. may accept the recommendation or may reject the same. Once the recommendation is accepted and acted upon even, then whoever has accepted and acted upon, it is estopped from raising question on the validity of the recommendation made by 3rd pay commission which was given effect from 01.01.1973, merely on a report of a committee formed after the recommendation.

The case of the union is solely based on Ext-W-1, the work note no 5918 dated 1.06.1971, issued by the local management of Calcutta Telecom Factory, after introduction of semi mechanized system in Galvanizing shop of the factory and has categorized Galvanizers as skilled workmen and fixed their pay scale from Rs.85-128 from Rs.75-110.

Nothing has come on record to show such matter was brought by the local management and the Union to the notice of the pay commission committee. It was the responsibility of the representative of the workmen, who is assumed to have basic knowledge about the functioning of Pay Commission to submit its memorandum with regard to categorization of the galvanizer as skilled workmen or could have requested or demanded the local management to apprise the pay commission on categorization of galvanizer who as per second pay recommendation was categorized as semi-skilled workmen to skilled.

Further, it appears representative of workmen by raising this industrial dispute seek relief on the recommendation made by Central Trade Review Committee sometime in the year 1983. In other words- the Trade Union who has espoused the dispute wants this Tribunal to pass an award giving effect to a recommendation made in 1983 and to revisit the 3rd Pay Commission recommendation which was given effect from 01-01-1971 and was also acted upon.

It has come on record, there were/are three Telecom Factories in India and which are located at Calcutta, Jabalpur and Bombay.

Then a question may arise, whether Galvanisers working in Calcutta Telecom Factory only can be declared as skilled workmen, ignoring galvanisers working in other two factories of Bombay and Jabalpur, when all of them being employees of central government are governed by same pay commission recommendation? Whether can there be two different classes of workmen who are similarly placed and doing same nature work under the same govt. department and whose mode of recruitment and qualification is same?

As per recommendation of 3rd Pay Commission which was given effect by the then Post and Telegraph Department from 01-01-1971 and vide which galvanizers working in Telecom Factory being categories as semi-skilled workmen and pay scale was fixed at Rs.210-290, then automatically such pay commission will also have effect to those galvanizers working in telecom factories at Jabalpur and Bombay. If this Tribunal is to declare galvanizers working only in Telecom Factory at Calcutta as skilled workmen on the basis of the work note dated 11-06-1971 issued by the Assistant Manager, Telecom Factory, Alipur, Calcutta, by passing or ignoring the 3rd pay recommendation and which had categorized galvaniser as semi-skilled workmen, then it will create inequality among equals and discriminatory treatment against galvanizers working in Jabalpur and Bombay telecom factories. Law is that all persons similarly circumstanced shall be treated alike, both in privileges conferred and liabilities imposed.

It is seen the galvanizers of Telecom Factory, Calcutta has raised the present industrial dispute challenging the recommendation of 3rd Pay Commission on the basis of the order passed by the Assistant Manager of telecom Factory at Calcutta and not even approved by the ultimate Authority, the General Manager, the controlling Officer.

That apart Exhibit-W.1 shows that on introduction of semi mechanised system in the galvanising shop, 7 galvanisers/ Picklers were promoted to in the post of Mistry Skilled in the scale of Rs.110-180 purely on a temporary basis for a period not exceeding six months w.e.f.01.01.1971 and remaining 50 galvanisers (S.S.) and Picklers (S.S.) were provisionally promoted as galvanisers skilled in the scale of Rs.85-128 w.e.f. 01-09-1971 subject to notification within six months in accordance with the approved job description of the galvanisers skilled.

Unfortunately, neither the management of Telecom Factory, Calcutta who issued such work note nor the union who have raised the dispute failed to produce the further notification vide which their provisional promotion have been regularized after the period of six months.

Exhibit- W.2 the resolution of the meeting held between local management and union on 26.05.1971, shows that semi mechanized system which was introduced in Telecom Factory, Calcutta would be experienced for six months and thereafter it would be reviewed. In case schedule out turn as declared by Annexure A was not achieved the promoted workers would be reverted back to their original post.

Exhibit-W.3 the minutes of the meeting dated 03-05-1972 no doubt shows that Manager Sri P.K. Biswas of Telecom Factory in the said meeting declared that semi-mechanized system of work will continue. In the said meeting union had raised issue of payment of special pay of Rs.5/- per month to the skilled workmen. That Manager had assured that he would take up the issue with the higher authorities.

Here a question arises, if the management of Calcutta Telecom Factory intends to categories the galvanisers as skilled workmen, then General Manager who was the Controlling Officer of all three Telecom Factories ought to have submitted his submission before the 3rd Pay Commission, for categorisation of galvanisers working in all three factories as skilled. Further a question arises, how the General Manager, the Controlling Officer of all three Telecom Factories situated at Calcutta, Jabalpur and Bombay could treat the galvanisers of Calcutta factory as skilled workmen, when the 2nd Pay Commission too had categorised it as semi-skilled job and later 3rd commission too categorised the same as semi-skilled workmen.

So, it is seen General Manager, Telecom Factories have created two categories of galvanisers/pricklers, those working in Calcutta factory were treated as skilled labour and they were given pay scale of Rs.85-128 whereas he continued to treat galvanisers/pricklers working in Jabalpur and Bombay Telecom Factories as semi-skilled workmen at pay scale of Rs.75-110. Thus, it appears the management by issuing the Exhibit-I has created two classes of workmen placed in same circumstances. Therefore, this Tribunal holds Exhibit-W.1, the basis of this present dispute to be illegal.

Prima facie it is seen by filing the present reference case the Union has challenged the recommendation of 3rd Pay Commission.

The Hon'ble Supreme Court of India in the judgment passed in A.C. Chandra –vs- State of Jharkhand and Ors. on 21-08-2007 has been pleased to observe granting pay scales is purely executive function and court should not interfere with the same. It may have cascading effect creating all kinds of problems for the Govt. and authorities. Equation of posts and salary is a complex matter which should be left to an expert body.

Since the recommendation of 3rd Pay Commission has categorised galvanisers as semi-skilled workmen in the pay scale of Rs.210-290, this Tribunal has no locustandi to declare the recommendation of the 3rd Pay Commission to be illegal and invalid in respect of 57 galvanisers of Telecom Factory at Calcutta, merely because the local management of Telecom Factory at Calcutta for reasons best known to it had categorised them as skilled workmen w.e.f. 01-09-1971 and that too for six months and ignoring the fact galvanisers working in Jabalpur and Bombay factories were working in the category of semi-skilled workmen at the relevant time. More so it is not the case of the mangement semi mechanised work in galvanising shop was introduced only in Calcutta and not in Jabalpur and Bombay.

In view of the above this Tribunal is of view the dispute raised by All India Post and Telegraph Industrial Workers Union for treating the galvanisers working in Telecom Factory at Calcutta as skilled workers and granting them such emoluments and benefits as skilled workers to be misconceived and in contrary to the recommendation made by the 3rd Pay Commission. The demands made by the Union is found illegal.

Accordingly, the Reference Case No.8 of 1990 is dismissed and award to that effect is passed.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1497.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फ्रंटलाइन (एनसीआर) बिजनेस सॉल्यूशन प्रा. लिमिटेड और अन्य, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 16 OF 2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/20/2015-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1497.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 16 OF 2015) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Frontline (NCR) Business Solutions Pvt. Ltd and others, and The Worker /Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/20/2015 (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO.16 OF 2015

Parties: Employers in relation to the management of

Frontline (NCR) Business Solutions Pvt. Ltd and others

AND

Their Workman/Union

Appearance :

On behalf of Management:

M/s.Frontline (NCR) Business Solutionss Pvt. Ltd. : Absent.

On behalf of M/s.Chennai Network Infrastructure Ltd. : Absent.

On behalf of Union/workman : Absent.

Dated 30TH MAY, 2023.

AWARD

Today has been fixed for filing show cause by the workman/Union. Unfortunately, neither the workman whose cause is involved in the present reference case nor Purva Medinipur Zela Security Service & Allied Workers Union (CITU), which has espoused the present dispute are found absent when the matter is called. Employer M/s.Frontline Business Solutions Pvt. Ltd and M/s. Chennai Network Infrastructure Ltd., are also found absent.

The Central Government, Min. of Labour vide its Order No. L-42011/20/2015-(IR (DU)) dated 25.02.2015/05.3.2015 has referred the following dispute for adjudication to this Tribunal.

“Whether the action of management of M/s.Frontline (NCR) Business Solutions, contractor of M/s.Chennai Network Infrastructure Limited is justified in denying job to Shri Ratan Das is legal and / justified? If not, what relief the workman is entitled to? “Whether the present contractor M/s S&IB Services Pvt. Ltd is justified by denying reinstatement u/s 25(H) of ID Act, 1947. If not what relief the workman is entitled to?”

In the record, there is only Statement of Claim filed by the Union and Written statement filed by S&IB Services Pvt. Ltd, but there is neither oral nor documentary evidence to substantiate and prove the claim of the Union/Workman.

Therefore, this Tribunal is of view, uncorroborated claim statement is not sufficient to decide the issue under reference.

The record shows that union/workman has stopped putting their appearance from 04.11.2019. Non-appearance of the union/workman for more than three years, a presumption can be drawn that they are not interested to pursue and proceed further with the dispute which they have espoused.

In view of the above, no dispute award is passed.

Reference case no.16 of 2015 is disposed of.

Justice K.D.BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1498.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बर्न स्टैंडर्ड कंपनी लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 13 OF 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-41011/24/2019-आईआर((बी-1))]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1498.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 13 OF 2019) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Burn Standard Co. Ltd., and The Worker/Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-41011/24/2019 -IR (B-I)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 13 OF 2019

Parties: Employers in relation to the management of

Burn Standard Co. Ltd.

AND

Their Workmen/Union

Appearance:

On behalf of Management: Burn Standard Co. Ltd.	:	Ld. Advocate Mr. R. Talukdar
On behalf of the Workmen	:	None

Dated 02nd March, 2023

AWARD

Today has been fixed for filing claim statement by the joint Secretary, Burn Standard Men's Congress, and the Union, upon when notice of appearance has been duly served as per A. D Card.

Unfortunately, the Union has failed to appear when the matter is called. Sh. Sushant Roy, one of the workmen, who had put appearance before the tribunal as the last date has failed to appear.

Therefore, non is found from the side of Union when the matter is called.

Further, the Management, upon whom notice was duly served as per A.D Card on 25.07.2019 too has failed to appear. Interestingly, the notice sent to the Management in the same address on 15.09.22 has returned undelivered with postal endorsement 'Left'. In view of the decision of the Hon'ble Supreme Court in Madan & Co. Vs. Wazir Javir Chand reported in (1989)1 S.C.C 264. Such service is deemed to be satisfactory.

That apart Order dated 18.09.2019 shows that both sides were present on the said date. Thus, both sides are well aware about the pendency of this reference case.

In spite of having knowledge about the present case and even after lapse of more than three years the union on whose behest the present reference has been made by the Govt. of India has failed to file its claim statement.

For the conduct of the parties as discussed above it can be inferred that union which has raised the present dispute is not interested to proceed with the same.

The Ministry of Labour vide its Order No. L-41011/24/2019 -IR (B-I) dated 01.07.2019 has referred the following issues for adjudication:-

"Whether the action on the part of the Management of Burn Standard Co. Ltd. a Central Public Sector Under Taking under Ministry of Railways in terminating the services of 57 regular workers Sh. Sushant Roy and 56 Ors. (list enclosed) without compliance of Section 25 F and 25N of the ID Act, 12947 is legal & justified? If not, what relief the workmen are entitled to?"

But, at present there is no material whatsoever for adjudication of the aforesaid issues as the union even after lapse of three years has failed to file its statement of claim along with supporting document.

Accordingly, the Reference No. 13/19 is dismissed for want of prosecution.

An award to that effect is passed.

Inform the Ministry for doing needful.

Supply copy of this order / award to the parties as per law.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1499.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स फ्रंटलाइन (एनसीआर) बिजनेस सॉल्यूशन प्रा. लिमिटेड और अन्य, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 91 OF 2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/160/2015-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1499.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 91 OF 2015) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Frontline (NCR) Business Solutions Pvt. Ltd and others, and The Worker/Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/160/2015 (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 91 OF 2015

**Parties: Employers in relation to the management of
Frontline (NCR) Business Solutions Pvt. Ltd and others**

AND

Their Workman/Union

Appearance :

On behalf of Management:

M/s.Frontline (NCR) Business Solutions Pvt. Ltd. : Absent.

On behalf of M/s.Chennai Network Infrastructure Ltd. : Absent.

On behalf of M/s. S&IB Services Pvt. Ltd. : Mr.Sushil Karmakar, Adv.

On behalf of Union/workman : Absent.

Dated 30TH MAY, 2023.

AWARD

Today has been fixed for filing show cause by the workman/Union. Unfortunately, neither the workman whose cause is involved in the present reference case nor Purva Medinipur Zela Security Service & Allied Workers Union (CITU), which has espoused the present dispute are found absent when the matter is called. Employer M/s. Frontline Business Solutions Pvt. Ltd and M/s. Chennai Network Infrastructure Ltd., are also found absent. The contractor employer M/s. S & IB Services Pvt. Ltd is represented by its learned counsel Mr. Sushil Karmakar.

The Central Government, Min. of Labour vide its Order No. L-42011/160/2015-(IR (DU)) dated 02.11.2015 has referred the following dispute for adjudication to this Tribunal.

“Whether the action of management of M/s.Frontline (NCR) Business Solutions, contractor of M/s.Chennai Network Infrastructure Limited is justified by terminating the service of Shri Lakshmikanta is legal and / justified? If not, what relief the workman is entitled to? “Whether the present contractor M/s S&IB Services Pvt. Ltd is justified by denying reinstatement u/s 25(H) of ID Act, 1947. If not what relief the workman is entitled to?”

In the record, there is only Statement of Claim filed by the Union and Written statement filed by S&IB Services Pvt. Ltd, but there is neither oral nor documentary evidence to substantiate and prove the claim of the Union/Workman.

Therefore, this Tribunal is of view, uncorroborated claim statement is not sufficient to decide the issue under reference.

The record shows that union/workman has stopped putting their appearance from 06.5.2019. Non-appearance of the union/workman since for last four years, a presumption can be drawn that they are not interested to pursue and proceed further with the dispute they have espoused.

In view of the above, no dispute award is passed.

Reference case no. 91 of 2015 is disposed of.

Justice K.D.BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1500.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स दामोदर घाटी निगम, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 41 OF 2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-L42011/80/2013-आईआर(डीयू)]

डी.के.हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1500.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 41 OF 2013) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Damador Valley Corporation, and The Worker /Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L- L42011/80/2013-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 41 OF 2013

Parties: Employers in relation to the management of

Damador Valley Corporation

AND

Their Workmen

Appearance :

On behalf of Management

: Mr. R. Dey,
Advocate

On behalf of the Workmen

: None

Dated 4th January, 2023

AWARD

Management is present through its Counsel. None appears from the side of Union when the matter is called for hearing. Material on record show notice of appearance sent to the Union after the joining of the present Presiding Officer was duly served upon it and in spite of receiving the notice of appearance, union has failed to take part in the further hearing of the case by adducing evidence for which purpose the case was fixed since 11.10.2018.

Therefore, taking into consideration such conduct on the part of the Union, it is assumed it is no more interested to proceed further with the hearing of the reference case, for adjudication of the dispute “Whether the action of the management of M/s. Allenmax Contractor as well as Damodar Valley Corporation, Principal Employer are justified in denying job to 19 no. of Workmen in their establishment is legal and justified? To what relief the Workmen are entitled.”

The Govt. of India, Ministry of Labour by invoking the power conferred U/s. 10(I) (D) & (2A) of the I.D. Act, has referred the above dispute for adjudication to this Tribunal vide order No. L42011/80/2013-IR(DU) dated 01.08.2013.

From the conduct of the Union discussed above it, can be assumed that Union has no grievance against both the Principal Employer and Contractor Employer and therefore, there is nothing to adjudicate by this Tribunal. Accordingly, no dispute Award is passed.

Let copy of this Award be sent to the Ministry of Labour for doing needful.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1501.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स तपन मुखर्जी; मैसर्स ऑर्डिनेंस फैक्ट्री बोर्ड, रक्षा मंत्रालय, भारत सरकार, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 08 OF 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-184-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1501.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 08 OF 2019) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s. Tapan Mukherjee; M/s. Ordinance Factory Board, Ministry of Defence, Govt. of India, **and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42025/07/2023-184-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

Application No. CGIT. 08 OF 2019 [U/S 2A(2) of I.D.Act.]

Sri Goutam Roy.

.. Applicant :

Versus

1. M/s. Tapan Mukherjee
2. M/s. Ordinance Factory Board, Ministry of Defence,
Govt. of India.

... Opp. Parties.

Appearance :

On behalf of Workman : None.

On behalf of the Management : None

Dated 22nd December, 2022

AWARD

This is an application for claim u/s 2A(2) of I.D.Act., 1947 filed by Sri Goutam Roy, Ichapur Indrapuri near 2nd Transformer, Post Office-Ichapur, Nawabganj, Pin-743 144, District- North 24 Parganas against (1). M/s. Tapan Mukherjee, Civil Contractor and general Order Supplier, Debitala, Post Office- Ichapur, Nawabganj (Near Rajendra Vidya Mandir), North 24 Parganas, Pin-743 144, West Bengal and (2) Government of India, Ministry of Defence Ordnance Factory Board, “Ayudh Bhavan”, 10-A, Shaheed Khudiram Bose Road, Kolkata – 700 001.

Parties are found absent when the matter is called.

Record shows, the notice issued upon the concerned workman Sri Goutam Roy had returned undelivered with postal endorsement “deceased”. Therefore, this Tribunal has called for an information regarding the present status of the applicant/workman from his Lawyer on record, but nothing is there in the record to show compliance of the order dated 01-11-2022 by the office about informing the Ld. Lawyer of the deceased workman.

However, on perusal of the record, I find that one Miss Priya Roy, daughter of Goutam Roy had appeared before the Tribunal on 25-09-2020 and had filed an application for withdrawal of the present case on the ground of death of concerned workman Goutam Roy and had also filed a Xerox copy of the death certificate of Goutam Roy and which shows the concerned workman had died on 01-09-2019 at Gandhi Memorial Hospital.

Miss. Priya Roy to prove that she is the daughter of deceased Goutam Roy had filed a Xerox copy of her Aadhar Card but I do not find any mentioned about such fact in the order sheet dated 25-09-2020. Since the workman had died and his daughter Miss. Priya Roy by filing a verified petition has prayed for withdrawal of the present case and as such the application dated 25-09-2020 is allowed in view of the fact that the concerned workman is no more alive and his legal heir is also not interested to proceed with the present case u/s 2A(2) of the I.D. Act.

Therefore, CGIT-08/2019 u/s 2A(2) of the I.D.Act , 1947 is hereby disposed of being withdrawn. This is my award.

Send a copy of this award to the Ministry of Labour, Govt. of India.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1502.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वरिष्ठ डाकघर अधीक्षक, दक्षिण कोलकाता डिवीजन, कोलकाता, के प्रबंधन के संबद्ध नियोजकों और कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 40 OF 2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल -40012/46/2013-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1502.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 40 OF 2013) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Sr. Supdt of Post Offices, South Kolkata Division, Kolkata, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-40012/46/2013-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 40 OF 2013

Parties : Employers in relation to the management of

Department of Post

AND

It's Workman

Appearance:

On behalf of the Management : Mr. Dipanjan Dutta, Advocate

On behalf of the Workman : Mr. Pradip Paul, Advocate.

Dated: 24th July, 2023

AWARD

By order No. L-40012/46/2013-IR (DU) dated 25-07-2013, Central Govt., Ministry of Labour in exercise of power conferred under section 10(1) (d) and (2A) of the Industrial Dispute Act, 1947 has referred the following issue for determination by this Tribunal:-

“Whether the action of the management of Postal Authority i.e. Sr. Supdt of Post Offices, South Kolkata Division, Kolkata-29 in terminating the service of Sri Raj Kumar Karmakar, Daily rated postman in the garb of retrenchment w.e.f. 1.1.2012 is legal and justified? To what relief the workman concerned is entitled to?”

The facts giving rise to the present reference in brief are that Sri Raj Kumar Karmakar was engaged by Post Master of Thakurpukur Post Office, Kolkata as a daily rated Postman in the month of September, 2010. He was paid wages regularly by the Post Master. That all on a sudden he was prevented from working as a daily rated Postman on and from 31-12-2011. The postal authority in answer to his queries made under RTI Act, has admitted that he worked as daily rated Majdoor at Thakurpukur Post Office, Kolkata from September, 2010 to 31-12-2011, without any interruption except on normal holidays. That he was paid wages under ACG-17.

He has further alleged that he was made to work as a Postal Peon against a permanent post. He worked for more than 240 days without any break in a calendar year. His service was terminated without complying the provisions of section 25-F of the Industrial Dispute Act. Thus he has prayed for his reinstatement in the same post with back wages.

The Postal authorities in their joint reply have alleged that Postal Department is not an industry. The concerned workman was to work as a daily rated Majdoor against occasional vacancy of Postman in different beats during the period from 10-09-2010 to 31-12-2011. He was engaged to do occasion interim nature of works. That he cannot claim appointment or absorption against a permanent post on the mere allegation that he was retrenched as a daily rated workman. Therefore, it has prayed for dismissal of the claim of the workman and reference.

The workman has examined himself as W.W. No.1. The workman produced 8 (eight) documents which have been marked as Exhibit- W/1 to W/8 on formal proof being dispensed with on 02-03-2016.

The management has examined Sri Mriganka Kumar Maity, Assistant Superintendent of Post as M.W. No.1. Photocopy of relevant page of Attendance Register has been marked as Exhibit-M/1 on formal proof being dispensed with on 02-03-2016.

Since the management has alleged that Department of Post is not an industry whereas the Ld. Counsel for the workman alleged that Department of Post is an industry. Therefore, first let this tribunal decide whether the Department of Post is an Industry or not?

Whether Department of Posts and Telegraphs is an industry has come up for consideration before The Hon'ble High Court at Kerala in the Director of Post, Postal Service vs- K.R.B. Kaimal & Anrs., reported in (1984) ILLJ 484 Ker delivered on 22-12-1983 and has been pleased to hold that a temporary clerk employed in the Post and Telegraph Deptt. and who are subjected to Central Civil Service (Temporary Service) Rules, 1965 framed under Article 309 of the Constitution of India, are not "workman" as defined in the Industrial Dispute Act, 1947 and as such the dispute raised by temporary clerks under section 33-C (2) of the I.D. Act, 1947 claiming monitory benefits on their alleged illegal termination is not maintainable.

Further, in the above judgement the Hon'ble Court has been pleased to mention about order/ judgement passed by the Hon'ble Single Bench of the same High Court in Bhaskaran –vs- Sub Divisional Officer in (1982)-I LLJ 248 delivered on 28-07-1982 and observed "the question raised in this writ appeal and the point decided did not arise for consideration in that case. We shall guard ourselves by stating that we have considered only the impact of special rules, the Central Civil Services (Temporary Service) Rules, 1965 on the Industrial Dispute Act and nothing further". The Hon'ble Three Bench Judge have observed the Hon'ble Single Judge allowed appeal and dismissed the original petition in view of the circumstances of the said case.

Therefore, let's see what were the facts and circumstances of the case decided by the Hon'ble Single Bench of the same High Court in Bhaskaran –vs- Sub Divisional Officer in 1982 II KLT-248, delivered on 28-07-1982, holding Postal Department to be an industry. Hon'ble Single Bench has been pleased to hold that the Post & Telegraph Deptt. to be an industry as the Act itself give an emphatic answer in the affirmative. The section 22(1) of the I.D. Act provides that persons employed in public utility services shall not go on strike without giving notice to the employer. Section 22 (2) provides that employers of public utility service shall not also declare a lock-out without notice. Section 12(1) of the I.D. Act, imposes an obligation on the conciliation officer to hold conciliation proceeding where the industry involved is a public utility service and a notice under section 22 is given. It is also the duty of the appropriate government to make reference under section 10(1), in such circumstances, unless it considers notice to be frivolous or vexatious. The Act makes a distinction between industries which are: public utility services and industries which are not; in the case of former, conciliation is obligatory and is so reference, subject to the exception noted; in the case of latter, conciliation and reference; are both discretionary. Having thus placed public utility services or a special footing it is only natural that the Act attempts to define "public utility service" in section 2(n).

The Hon'ble Single Judge has been pleased to hold since section 2(n) of the I.D. Act, includes any postal, telegraph or telephone service as public utility services to which the provision of section 10, 12 and 22 of the I.D. Act, directly apply and therefore it is an industry. The P&T Deptt. cannot declare a lock-out without notice; employees of Deptt. cannot also go on strike without notice.

The Hon'ble Single Judge has been pleased to refer to the decision passed in D.N. Banerji –vs- P.R. Mukerji, 1953-I LLJ 195 and where Hon'ble Supreme Court had observed though a layman could not think in terms of an industry when the rights and duties connected with the functioning of a Government or its Secretariat were involved, there was nothing to prevent a statute from giving the word "industry" a wider and more comprehensive import in order to make the requirements of rapid industrial progress. The purpose of the Act was to resolve dispute between capital and labour in the interest of industrial peace.

Further, the Hon'ble Single Judge has been pleased to discuss State of Bombay –vs- Hospital Mazdoor Sabha, 1960 –I LLJ 251, Corporation of City of Nagpur- vs- its Employees, 1961-I LLJ 523, National Union of Commercial Employees-vs- Maher 1962-I LLJ 241, University of Delhi vs Ram Nath, 1963-2 LLJ 335, Madras

Gymkhana Case, 1967 II LLJ 720, Cricket Club of India , 1969-I LLJ 227 Safdarjung Hospital 1970, II LLJ 266 and Bangalore Sewerage Case.

The Hon'ble Single Judge has been pleased to take note of following relevant findings of Hon'ble Justice Krishna Iyer in Bangalore Sewerage Case as follows :-

- (i) the term 'industry' is of wide import. All systematic activity, organized with the co-operation of employers and employees, for the production and distribution of goods and services, will be 'industry'. Absence of profit motive is irrelevant in public and private ventures alike. The test is functional, and motives like charity and philanthropy are irrelevant;
- (ii) the ideology of the Act is industrial peace, and the sweep of the definition cannot be cut down in the case of professions, clubs, educational institutions, charitable projects and kindred adventures;
- (iii) where mixed activities are involved, the predominant nature of the activity, as explained in Nagpore Corporation case must prevail;
- (iv) only sovereign functions of the State, strictly understood, can qualify for exemption; other governmental activities are covered by the Act, if the functional test is satisfied;
- (v) even in departments discharging sovereign functions, if there are units which are severable and which are engaged in industrial activities, Section 2 [j] of the Act can be attracted;
- (vi) constitutional and enacted legislative provisions can remove from the scope of the Act activities which are otherwise industrial; and
- (vii) Safdarjung and Gymkhana case were wrongly decided; Hospital Mazdoor Sabha had made the right approach.

Further, pleased to quote the observation of Hon'ble Justice Krishna Iyer, , in paragraph (46) of the said decision referring to the Nagpore Corporation 1978-I L.L.J. 379: the Court proceeded to carve out the negative factors which, notwithstanding the literal width of the language of the definition, must, for other compelling reasons, be kept out of the scope of industry. For instance, sovereign functions of the State cannot be included although what such functions are has been aptly termed 'the primary and inalienable functions of a constitutional government'. Even here we may point out the ineptitude of relying on the doctrine of regal powers. That has reference, in this context, to the Crown's liability in tort and has nothing to do with Industrial Law. In any case, it is open to Parliament to make law which governs the State's relations with its employees. Articles 309 to 311 of the Constitution of India, the enactments dealing with the Defence Forces and other legislation dealing with employment under statutory bodies may, expressly or by necessary implication, exclude the operation of the Industrial Disputes Act, 1947. That is a question of interpretation and statutory exclusion; but, in the absence of such provision of law, it may indubitably be assumed that the key aspects of public administration like public justice stand out of the circle of industry. Even here, as has been brought out from the excerpts of ILO documents, it is not every employee who is excluded but only certain categories primarily engaged and supportively employed in the discharge of the essential functions of constitutional Government. In a limited way, this head of exclusion has been recognised throughout.

The modern State is not a simple mechanism to safeguard the country from external aggressions and internal disturbances; it is against performing multifarious functions. It builds dams, constructs railways, operates buses, flies planes, digs canals, generates electricity, distributes essential articles, carries letters, establishes schools, colleges, ports and poor homes. It is active in the field of mining, banking, insurance, shipping and fishing. It sets up factories and workshops, markets and fairs, gas and gas work, hotels and hospitals, libraries and museums. Under Article 19(6) of the Constitution, it can carry on any trade, business, industry or service to the exclusion of others. The Directive Principles in Part IV require it to secure work for all by "economic organisation", to provide for free and compulsory education, and to organise agriculture and animal husbandry on scientific lines. The Central and State Governments, together with corporations controlled by them, employ the largest number of workers in the country. When these workers start agitating for better service conditions, the Industrial Disputes Act pro-v provides for settlement of the resultant disputes through the peaceful process of conciliation or adjudication, so that the factories, fields and offices are spared of pitched battles and the flexing of muscles. The machinery provided by the Act is a safety valve to avoid explosions, and ensure the supply of goods and services even during movements of acute differences or disputes. If the State thinks that the safety valve has to be removed, let it do so directly, on its own responsibility, by suitable legislative measures, instead of inviting the Courts to misconstrue the statute by reading into it personal predilections and individual philosophies.

Therefore, observed one of the exceptions carved out by the Court is in favour of activities undertaken by the Government in the exercise of its inalienable functions under the Constitution, call it regal, sovereign or by any other name. That one must have regard to the nature of the activity and not to who engages in it. In fact, to concede the benefit of an exception to the State's activities which are in the nature of sovereign functions is really to have regard not so much to the nature of the activity as to the consideration who engages in that activity; for, sovereign functions can only be discharged by the State and not by a private person. If the State's inalienable functions are excepted from

the sweep of the definition contained in Section 2(j), one shall have, unwittingly rejected the fundamental test that it is the nature of the activity which ought to determine whether the activity is an industry. Indeed, in this respect, it should make no difference whether; on the one hand, an activity is undertaken by a corporate body in the discharge of its statutory functions or, on the other, by the State itself in the exercise of its inalienable functions. The essence of the matter is that if you are able to infer from the definition clause, read along with the other provisions of the Act, that every organised activity carried on with the co-operation of employers and employees for production of goods or for rendering services is an industry, you have to apply that yardstick to governmental activities also, unless any exemption is recognised by the Act itself or other laws. To cut down the concept by carving out exceptions in favour of certain activities, whether governmental, charitable, self-serving or philanthropic, would be to undermine the very concept you have painstakingly evolved. And even that can be done only if Courts can trespass into the field of policy. Section 2(s) of the Act lays down that every person employed in an industry to do skilled, unskilled, manual supervisory, technical or clerical work is a "workman", subject to the exceptions specified. The generality of postal employees do not come within these exceptions; the mazdoors, the telephone operators, the telegraphists, technicians, clerks and supervisors of the department are workmen. If they are workmen, how do they cease to be so because service rules are also there to govern some of their service conditions? Employees exempted from Section 2(s) include policemen, prison officers and personnel subject to the Army Act, the Air Force Act and the Navy (Discipline) Act. These exempted employees, it is well-known, are also governed by service rules. Parliament did not think that the applicability of service rules alone would be sufficient to place them outside the definition clause; that is why it sought to exclude policemen, prison officers and some categories of defence personnel, by specific exemptions. Is not the implication clear that other Government servants are covered by the definition, despite applicability of service rules, if they are employed to do unskilled, skilled and clerical work in an industry?

Sections 2(a), 2(g), 2(n), 2(s) 9-A, 10 and 22, the proviso to Section 17A, and the entries in the First Schedule are all indications that the provisions of the Act will apply to governmental activities, if such activities are of the nature referred to in the Hospital Mazdoor Sabha and the Sewerage cases. The Posts and Telegraphs Department is, therefore, an industry. The petitioners who are casual mazdoors are unskilled workers engaged in such an industry. I, therefore, declare that their services cannot be terminated except in accordance with the provisions of Section 25-F of the Act. and orders of termination orally passed without regard to the said provisions, shall have no effect.

In view of the above two decisions of the Hon'ble High Court at Kerala, it appears, an employee who is governed by the service rules framed under Article 309 of the Constitution of India is not a workman as defined in section 2(s) of the I.D. Act and to whom no Industrial Dispute Act applies. On the other hand, a casual majdoors of the Post & Telegraph Deptt. who are not governed by service rules are workman as defined in section 2(s) of the I.D. Act as Post & Telegraph Deptt. being a public utility service governed by section 10, 12 and 22 of the I.D. Act.

In the present case the concerned workman during his cross examination by the counsel for the authority of Postal Deptt. and recorded before the Tribunal on 18-09-2019 has admitted that he was working at Thakurpukur Post Office as a daily rated majdoor and he was not given any appointment letter. He in his statement of claim has alleged that he worked without any break as a daily rated workman at Thakurpukur Post Office from the month of September, 2010 till 31-12-2011. He has also stated that such fact has been admitted by the Central Assistant Public Information Officer, West Bengal circle, office of the Sr. Post Master, Alipur in his reply under Right of Information Act. Exhibit-7 appears to be the reply by Sr. Superintendent of Post Offices, South Kolkata Division, Kolkata-29 to the queries made by the concerned workman under RTI Act., but Exhibit-7 does not disclose that concerned workman joined Thakurpukur Post Office as a casual workman in the month of September, 2010 as alleged but it discloses that he last worked on 31-12-2011.

Be that as it may, the Postal authorities in their joint written statement and in paragraph 3 (a) has admitted that Sri Raj Kumar Karmakar used to work as daily rated at Thakurpukur Post Office against occasional vacancy of Postman in different beats during the period from 10-09-2010 to 31-12-2011. Such admitted fact stands corroborated by Exhibit-M/1, copy of Attendance Register, produced by the management and which shows that Sri Raj Kumar Karmakar joined Thakurpukur Post Office on 10-09-2010. The Attendance Register from the month of October, 2010 to December, 2011 show that Sri Raj Kumar Karmakar regularly attended his duty from 10-09-2010 to 31-10-2011, and which prima facie prove that he worked for more than 240 days in a calendar year and the authority of Postal Deptt. has for reasons best known to them appears to have suppressed in furnishing reply to the queries no.2 made by the workman under RTI Act. (Exhibit-6).

Since the concerned workman being a daily rated worker engaged to do the job of a Postman by the Postmaster of Thakurpukur Post Office and not governed by Service Rules framed under Article 309 of the Constitution and not being a regular/permanent employee of Postal Deptt., but he having worked for more than 240 days for the period from 10-09-2010 to 31-10-2011, he should not be remediless. Therefore, in view of decision passed by the Hon'ble Single Bench of Kerala High Court in Bhaskaran –vs- Sub Divisional Officer in (1982)-I LLJ 248, the service of the present workman cannot be terminated orally except in accordance with the provisions of section 25-F of the Act.

However, the concerned workman who was engaged as a casual workman in a Central Govt. Postal Deptt., cannot seek regularization or absorption against a sanctioned post, if any, lying vacant without undergoing selection process as per recruitment rules to which Postal Deptt. is governed or recruitment process it is required to follow, merely because his termination has been held not in accordance with the provisions of section 25-F of the Act. Therefore, he is not entitled to get reinstatement with back wages.

In view of the above discussion, the authorities of Postal Department are directed to make necessary payment in accordance with the provisions of section 25-F of the Act, within three months from the date hereof. Accordingly, Reference No. 40 of 2013 is disposed of with the above findings and award is passed to that effect.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1503.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केंद्रीय सांख्यिकी कार्यालय, कोलकाता महानिदेशक, केंद्रीय सांख्यिकी कार्यालय,, के प्रबंधन के संबद्ध नियोजकों और श्री रतन नस्कर, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 01 OF 2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-183-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1503.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 01 OF 2013) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Central Statistics Office, Kolkata The Director General, Central Statistics Office, and Shri Ratan Naskar, Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42025-07-2023-183-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

Application No. CGIT. 01 OF 2013 [U/S 2A(2) of I.D. Act.]

Parties: Sri Ratan Naskar, 3/H/17, Tarini Charan

Ghosh Lane, Kolkata-700 002.

...Applicant

-Vs-

1. Central Statistics Office.
2. Director General, Central Statistics Office.

...Opp. Parties

Appearance :

On behalf of Workman : Applicant

On behalf of the Management : Mr. Joy Sarkar, Adv.

Dated 6th March, 2023

AWARD

Record is put up today for passing necessary order / award.

Persued the record and where from it appears the present case was dismissed with the finding the Central Statistics Office is not an industry and the application U/s. 2A of the I.D. Act, of the Applicant Ratan Naskar was dismissed by an award dated 10.10.2018.

Such award was challenged before the Hon'ble High Court of Calcutta in W.P. No. 12187 of 2019, whereby the Award as set aside and directed the Tribunal to examine the issue a merits once again relying upon the earlier definition of "Industry" as this Tribunal has passed the award relying on the new definition of "Industry" which has not been brought into force for last 23 years.

Thus, once again the present case U/s. 2A of the Industrial Dispute Act, 1947 is taken up for adjudication of the issue "Whether Central Statistics Office, under the Ministry of Statistics and Programme is an industry as defined in Sec.2(J) of the Industrial Dispute Act, 1947?".

Before adjudication of the above issue, let me briefly discuss the facts of the case.

Applicant Ratan Naskar has filed an application U/s. 2A of the I.D. Act, 1947, claiming that his termination is unjustified and reinstatement in service with full back wages and other consequential benefits under the law.

It is his claim that he was engaged as a Mazdoor in the office of Central Statistics Office, Kolkata on 01.06.1999. He used to discharge the function of a Peon, through his name was not incorporated in the permanent muster roll of Peon. He discharged his duty diligently till his service was terminated on 01.10.2012, without following the statutory procedure as provided in Sec. 25F of the I.D. Act. Thus present reference.

The Central Statistics Office, has contracted such case and claim of the applicant by filing written statement and where it has categorically challenged the maintainability on the ground that it is not an industry but a regular Central Govt. Office discharging its sovereign function.

The Applicant was appointed as a mazdoor (unskilled labour) purely for doing occasional nature of work on daily basis. Payment was made to him on the basis of claim voucher submitted by the Applicant. He not being a permanent staff he can not claim reinstatement with back wages. Therefore, it has prayed for dismissal of the Application U/s. 2A of the I.D. Act.

Record shows the Applicant has examined himself as W.W. No. 1 and was cross-examined by the Management / Employer and where he has admitted that no wages was paid to him the day he remained absent. He used to perform not a regular type of work but some odd jobs.

That as many as nine documents have been produced from the side of workman and which have been marked as Exhibits W-1 to W-9 on formal proof being dispensed with.

On the other hand no evidence either oral or documentary have been adduced from the side of the Employer / Management. Documents filed by the Applicant show that he is only class VII pass as per his employment exchange card. That his name was sponsored by Sub-Regional Employment Exchange for doing misc. type of manual labour such as fetching water from outsides the building and distribution of water to different units and to move the heavy weight machines, furniture etc. at C.S.O. (I.S. Wing) at daily fixed wage of Rs.71.81 paise w.e.f. 01.06.1999.

That in the year 2003 he had applied for the post of Peon on contractual basis and was issued an interview letter. The office order of the Management / Employer dated 05.11.2009 shows that Ratan Naskar applicant and Md. Jabir Hossain another applicant of CGIT-02/2013 were paid wages along with other six as mazdoor and way side Safaiwala engaged in the month of October, 2009. It further shows that this applicant had worked for 19 days and Md. Jabir Hossain, the other applicant of another similar case 02/2003 for 22 days.

From such letter it can be informed that the present Applicant Ratan Naskar had disqualified in an interview for Peon on contractual basis.

It is a matter of common knowledge, candidate for the post of group 'D' Peon should have a minimum qualification of class VIII and should be able to produce a pass certificate of the same for considered for selection.

In the present case the Applicant is only class VII passed as per his employment exchange card. Ext-2.

Therefore, he is not qualified to be engaged as a Peon as claimed by him and question of his regularization or absorption in a regular post does not arise even if he has worked for the establishment for more than ten years.

Further Ext-5 and Ext-7 shows that he used to work for few days in a month.

Be that as it may, let me decided this issue in question. It is true that there has been amendment in the definition of "Industry" by the Act 46 of 1982 in view of the landmark judgement passed in Bangalore Water Supply

and Sewerage Board Vs. A. Rajappa and Other, reported in 1978-I-LLJ-349, unfortunately till date the Govt. Has not notified such amendment and till date the unamended definition of “Industry” prevails and which read “Industry” means any business, trade, undertaking, manufacturing, calling of employee and includes any calling service, employment, handicraft or industrial occupation or avocation of workman”.

However, the Courts / Tribunal while interpreting the term “industry” has evolved that profit motive or money consideration for the service rendered is not essential character. The regal and sovereign function of the State are kept outside the scope of Industry, but other functions of the Govt. which are not of regal character held to be an industry.

In Bangalore Water Supply (Supra) the Hon’ble Supreme Court has been pleased to hold even departments of the Govt. discharging sovereign function will be an industry provided there is any unit where systematic activity is carried on by co-operation between an employer and his employee for production or distribution or supply of goods or services with a view to satisfy human wants or wishes not being religious or spiritual in nature. Systematic activity should be done with the motive of projects or certain financial gains. Systematic activity should be resulting out of co-operation between the employer and employee. If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

The Bangalore Water Supply (Supra) gave a very wide interpretation of the term “Industry” and till date the landmark judgement stands.

Keeping in view the Principle laid down in Bangalore Water Supply Case (Supra), let me see whether Central Statistics Office discharge purely Sovereign function or where systematic activity is carried on by co-operation of both the establishment and its employee for production and supply of goods or services with a view to satisfy human wants and wishes.

The term “Statistic” connotes science of collecting analyzing, presenting, organizing data and interpreting data. The data collected can be used to predict the future, determine the probability and make decision based on data.

As per web-site of Central Statistics Office (India) it is a government agency in India and the Ministry of Statistics Programme Implementation responsible for co-ordination of Statistical activities in India, evolving and maintaining statistical standard. Its activities include National Income Accounting, Conduct of annual survey of Industries, Economic Censuses and its follow up surveys, compilation of index of Industrial Production as well as Consumer Price Indices for Urban Non-manual employees, Human Development Statistics, Gender Statistics, importing training in official statistics, five year plan work relating to Development of statistics in the state and Union Territories, dissemination of statistical information, work relating to trade, energy, construction and environmental statistics, revision of National Industrial classification etc. It plays an advisory role in statistical matters. It provides National statistics to United Nation. It has set up a unit to attend to statistical work relating to the five year plans in collaboration with the planning commission. Provide training facilities for statistical personnel. It is also responsible for the compilation and publication of National Income statistics. Through its Industrial statistical wing conducts, the Annual survey of Industries and publishes the result.

Further, it provides quantitative and qualitative information on all major areas of citizens live such as economic and social development, living conditions, health, education and the environment. It supplies decision makers and other users including the general public and the research community with a continuing flow of information to help user develop their knowledge about a particular topic or geographical area, make comparison between countries or understand changes over-time make information on economic and social development accessible to the public allowing the impact of Govt. Policies to be assessed thus improving accountability. It collects data from different Govt. organization, Non-Govt. organization and agency and also from international agency and organization.

Thus, activity and function that is discharged by Central Statistics Office Kolkata can not be called business, trade, undertaking, manufacturer or industrial occupation or economic venture or commercial enterprise to satisfy the need of the consumer community. The data collected by it from different Govt. or Non Govt. Organization and agency can not be said to be due to the systematic activity carried on by co-operation by its employee. It does compilation of data collected from different sources and disseminate the statistical information through periodical publication.

That apart the Applicant has failed to prove by adducing both oral and documentary that it carries out systematic activity by co-operation of its employees for production and distribution or supply goods and service with a view to satisfy human wants or wishes.

In view of above, it is established that the activity of Central Statistics Office is sovereign function of the Govt. which is specifically excluded from the definition of terms “Industry”. Consequently, the Applicant can not claim to be a workman within the definition of Sec. 2(a) of the I.D. Act, 1947 and thereby no industrial dispute can be said to have arisen.

Accordingly, the application U/s. 2A of the I.D. Act, is hereby dismissed and Award is passed to that effect. CGIT-01 of 2013 is dismissed.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1504.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स रिलायबल हॉस्पिटैलिटी सर्विसेज एवं अन्य, के प्रबंधन के संबद्ध नियोजकों और कामगार/संघ, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 37 OF 2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-41011/34/2015-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1504.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 37 OF 2015) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Reliable Hospitality Services & Other, and The Worker/ Union**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-41011/34/2015 - IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 37 OF 2015

Parties: Employers in relation to the management of

M/s Reliable Hospitality Services & Other

AND

Their Workmen/ Union

Appearance:

On behalf of Management: **Reliable Hospitality**

Services: Ld. Adv. Mr. D. Sengupta

& Tapan Sinha Memorial

Hospital, Metro Rly. : None

On behalf of the Workmen: Railway Contractors

Labour Union (WB) : Absent.

Dated 15th March, 2023

AWARD

The Authorized Representative of the Chief Medical Superintendent, Tapan Sinha Memorial Hospital Metro Railway is present along with letter of Authority. Let it be taken on record.

Notice sent through speed post to the Railway Contractor Labour Union, which has raised the present dispute has failed to appear inspite of due service of notice upon it as per track report.

The Contractor Employer too fails to appear. Record shows it was pursuing the matter through its Ld. Counsel Shri Debasis Sengupta.

Record further shows the Union had failed to put appearance and contest the dispute even after due service of notice upon it in the year 2018.

Therefore, it can be assumed the Union which has espoused the dispute is not at all interested to conduct the proceeding for reason best known to it.

Be that as it may the Ministry of Labour vide its Office Order No. L-41011/34/2015 dated 18.06.15 has referred the following issue to this tribunal for adjudication:-

“Whether the action of the management of M/s Reliable Hospital Service, Kolkata, a contractor of Tapan Sinha Memorial Hospital being run by Metro Railway authority in denying the redeployment of existing 6 nos. of workmen namely Sh. Parkash Yadab, Sh. Sitaram Yadab, Sh. Mukesh Kr. Yadab, all working as drivers, Sh. Samiran Ghosh, Sh. Bapi Dey, Sh. Nandan Sengupta, all working as helpers under new contract agreement for providing ambulance service duly issued by Metro Railway authority is legal, just and fair. Whether the role taken by the authority of Metro Railway, Kolkata in protecting the interest/ job security of contractual workmen is proper, justified. If not, what relief the present set of workmen numbering six is entitled to?”

The Union is not pursuing the dispute since the day the same has been referred to this Tribunal.

Therefore, no dispute award is passed and Reference Case No. 37/15 is disposed of.

Send copy of the Award to the Ministry for doing needful.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2023

का.आ. 1505.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय अंतर्देशीय जलमार्ग प्राधिकरण, के प्रबंधन के संबद्ध नियोजकों कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- कोलकाता पंचाट (संदर्भ संख्या 02 OF 2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.09.2023 को प्राप्त हुआ था।

[सं. एल-42011/134/2012-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th September, 2023

S.O. 1505.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 02 OF 2013) of the **Central Government Industrial Tribunal cum Labour Court – Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Inland Waterways Authority of India, and The Worker**, which was received along with soft copy of the award by the Central Government on 14.09.2023.

[No. L-42011/134/2012-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO.02 OF 2013

Parties: Employers in relation to the management of

Inland Waterways Authority of India

AND

Their Workmen

Appearance :

On behalf of Management	:	Mrs. R. Majumder, Advocate
On behalf of the Workmen	:	None

Dated 4th January, 2023

AWARD

Management is present through its Counsel. None appears from the side of Union when the matter is called.

Notice of appearance sent to the Union through speed post is not yet returned or no acknowledgement card received. But, track report shows that attempt was made to serve upon the addressee on 30.11.2022 as addressee could not be located.

An attempt was made to serve the same on next date i.e. on 01.12.2022, but the door of the addressee having found locked the item was kept on hold.

Then the item was returned unclaimed on 10.12.2022.

Later the office placed the undelivered envelop addressed to the Union.

The law is settled “unclaimed” is a good service. since the union has refrained itself for appearing before the Tribunal and conduct the hearing of the reference case it can be presumed that it is no more interested to proceed further with the present reference case perhaps in view of order dated 02.03.2020. Therefore, the Tribunal decided to dispose of the present case in view of Rule 22 of I.D. Rule, 1957.

By order No. L-42011/134/2012-IR(DU) dated 14.12.2012, the Govt. of India, Ministry of Labour in exercise of its power u/s 10(1)(d) & (2A) of the I.D. Act, 1947 refereed the following dispute to this Tribunal for adjudication.

“Whether the action of the management of Inland Waterways Authority of India in terminating the service of two workmen namely Mr. Moidul Islam (DCO) and Mr. Goutam Tunga (1st Class Driver) w. e. f. 19.10.2011 is legal and justified ? If not, what relief the workmen are entitled to?

The Union after appearance has filed statement of claim and the Management too has filed its W/S, but both union of Management appear to have pleaded and defended case in respect of some other issues having no connection to the dispute as referred by the Govt.

Schedule of Reference as reproduced above prima facie show it relates to termination of two employee, but statement of claim deals with a cause relating to 63 contingent workers working in different vessels of I.W.A.I.

Similarly, the management too by overlooking the schedule of reference has filed written statement concerning 63 contingent workers working for it in different vessels.

The union has filed evidence on affidavit of one Debasish Maity, who too has stated the case of contingent workers working for the management and how illegally Management has deprived them as their entitlement.

Therefore, the statement of claim filed by Union, evidence of its witness on affidavit and the written statement filed by the management have nothing to do with the dispute under reference and as such they are not taken into consideration.

Since there is no statement of claim or written statement of the management in the eye of law, the Tribunal hold the Union has no grievance at present in respect of the issue under reference. Therefore, there exist no dispute adjudication.

Accordingly, the Reference No. 02 of 2013 is disposed of. Award is passed accordingly.

Let the copy of Award be sent to the Ministry for doing needful.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1506.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्ई के पंचाट (12/2022) प्रकाशित करती है।

[सं. एल-39025/01/2023आईआर(बी-II)-40]

सलोनी, उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.12/2022) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023 - IR(B-II)-40]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID No. 12/2022

Present: DIPTI MOHAPATRA, LL.M.
PRESIDING OFFICER

Date: 16.05.2023

Shri J. Ramprasath

S/o Jayaraman

No. 1/155, Vadapazhanji Road

Palkalai Nagar

Madurai-625001

: First Party Petitioner

AND

1. The Chief Manager - HR

Canara Bank

No. 112, J.C. Road

Bengaluru-560002

: 2nd Party/1st Respondent

2. The Chief General Manager – HR

Canara Bank, Circle Office

Teynampet

Chennai-600018

: 2nd Party/2nd Respondent

3. The Regional Manager

Canara Bank, Regional Office

No. 145, Claret Plaza

Melakal Main Road, Kochadai

Madurai-625016

: 2nd Party/3rd Respondent

4. The Regional Manager

Canara Bank, Regional Office

No. 99, Boulevard Road

Tiruchirappalli-620008

: 2nd Party/4th Respondent

Appearance:

For the Petitioner

: Advocate, M/s K.M. Ramesh

For the 1st/2nd/3rd & 4th Respondents

: Advocates, M/s T.R. Sathiyamohan & Associates

AWARD

This is an Application under 2A(2) of the Industrial Dispute Act. The Applicant challenges the order of Respondent dismissing him from job. The applicant sought for his reinstatement with continuity of service, back wages and all other attendant and consequential benefits.

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered as ID No. 10/2022. Notices were issued to both the parties for their appearance fixing the case to 26.04.2022. None on behalf of the First Party Petitioner appeared resulting further to 14.06.2022. On that day, both parties entered appearance. The case was posted for Counter Statement to 01.08.2022. On that day, the Counsel for the Respondent filed Counter Statement on behalf of all the Respondents. Accordingly, the Petitioner was directed to file Affidavit-Evidence on 15.09.2022. The Petitioner failed to file Affidavit-Evidence and documents resulting four adjournments till 29.03.2023. The Appellant did not turn up to file the Affidavit-Evidence. The Counsel for the Respondent who was very much present submitted to dispose of the case for default of the Petitioner. However, for the interest of justice the Petitioner was once again afforded with almost two months' time to file Affidavit-Evidence and documents, if any listing the case to 15.05.2023.

5. On repeated calls the Petitioner did not turn up nor filed any Petition seeking extension of time. No Affidavit-Evidence or documents were furnished in any manner. At this juncture, the Counsel for the Respondent submits not to re-schedule the case to any other date but to dispose of the same in accordance to Rule-22 of the Industrial Dispute (Central) Rules, 1957. The submission of the Learned Counsel for the Respondent since has got sufficient force for consideration, it is felt not to re-list the case to any other date for the same purpose but to dispose of the case in accordance with Law. Hence the case is reserved for final order.

5. In view of the discussions held in preceding paragraphs, it is crystal clear that the Petitioner even though was afforded with sufficient opportunities fail to file any Affidavit-Evidence. The Petitioner thereby found to have withheld himself to come to the dock to prove his case on the other hand simply dragged the case for more than a year from the date of registration without any fruitful result. The very conduct of the Petitioner amply proves that he has no interest to proceed with the case. The non-cooperation of the Petitioner simply caused enormous wastage of valuable time of the Tribunal. Thus, it is felt to dispose of the case as liable for dismissal.

6. In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as per the 2A(2) Application. In the result the reference is answered against the Petitioner.

The ID case stands dismissed for default.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1507.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (10/2022) प्रकाशित करती है।

[सं. एल-39025/01/2023-आईआर(बी-II)-39]

सलोनी, उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.10/2022) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen.

[No. L-39025/01/2023 - IR(B-II)-39]

SALONI, Dy. Director

ANNEXURE
BEFORE THE CGIT-CUM-LABOUR COURT AND EPF APPELLATE TRIBUNAL CHENNAI
ID No. 10/2022

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 16.05.2023

Shri N. Nagarajan

S/o P. Natarajan

No. 1, Ansari Street, 1st Street

Mappalayam

Madurai-625016

: First Party Petitioner

AND

1. The Chief Manager - HR

Canara Bank

No. 112, J.C. Road

Bengaluru-560002

: 2nd Party/1st Respondent

2. The Chief General Manager – HR

Canara Bank, Circle Office

Teynampet

Chennai-600018

: 2nd Party/2nd Respondent

3. The Regional Manager

Canara Bank, Regional Office

No. 145, Claret Plaza

Melakal Main Road, Kochadai

Madurai-625016

: 2nd Party/3rd Respondent

Appearance:

For the Petitioner

: Advocate, M/s K.M. Ramesh

For the 1st/2nd/3rd Respondents

: Advocates, M/s T.R. Sathiyamohan &
Associates

AWARD

This is an Application under 2A(2) of the Industrial Dispute Act. The Applicant challenges the order of Respondent dismissing him from job. The applicant sought for his reinstatement with continuity of service, back wages and all other attendant and consequential benefits.

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered as ID No. 10/2022. Notices were issued to both the parties for their appearance fixing the case to 26.04.2022. None on behalf of the First Party Petitioner appeared resulting further to 14.06.2022. On that day, both parties entered appearance. The case was posted for Counter Statement to 01.08.2022. On that day, the Counsel for the Respondent filed Counter Statement on behalf of all the Respondents. Accordingly, the Petitioner was directed to file Affidavit-Evidence on 05.09.2022. The Petitioner failed to file Affidavit-Evidence and documents resulting four adjournments till 29.03.2023. The Appellant did not turn up to file the Affidavit-Evidence. The Counsel for the Respondent who was very much present submitted to dispose of the case for default of the Petitioner. However, for the interest of justice the Petitioner was once again afforded with almost two months' time to file Affidavit-Evidence and documents, if any listing the case to 15.05.2023.

4. On repeated calls the Petitioner did not turn up nor filed any Petition seeking extension of time. No Affidavit-Evidence or documents were furnished in any manner. At this juncture, the Counsel for the Respondent submits not to re-schedule the case to any other date but to dispose of the same in accordance to Rule-22 of the Industrial Dispute (Central) Rules, 1957. The submission of the Learned Counsel for the Respondent since has got sufficient force for consideration, it is felt not to re-list the case to any other date for the same purpose but to dispose of the case in accordance with Law. Hence the case is reserved for final order.

5. In view of the discussions held in preceding paragraphs, it is crystal clear that the Petitioner even though was afforded with sufficient opportunities fail to file any Affidavit-Evidence. The Petitioner thereby found to have withheld himself to come to the dock to prove his case on the other hand simply dragged the case for more than a year from the date of registration without any fruitful result. The very conduct of the Petitioner amply proves that he has no interest to proceed with the case. The non-cooperation of the Petitioner simply caused enormous wastage of valuable time of the Tribunal. Thus, it is felt to dispose of the case as liable for dismissal.

6. In view of the discussion held in preceding paragraph, it deems there exists no dispute for adjudication as per the 2A(2) Application. In the result the reference is answered against the Petitioner.

The ID case stands dismissed for default.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (14/2020) प्रकाशित करती है।

[सं. एल-39025/01/2023-आईआर(बी-II)-20]

सलोनी, उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1508—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.14/2020) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen.

[No. L-39025/01/2023- IR(B.II)-20]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT AND EPF APPELLATE TRIBUNAL, CHENNAI

ID No. 14/2020

Present: DIPTI MOHAPATRA, LL.M.

PRESIDING OFFICER

Date: 08.05.2023

Sri M. Balasubramaniam
S/o Muthukalai
No. 6, Manickavasagam Street
Ramkrishna Raji Nagar
Sadasiva Nagar, Madipakkam
Chennai

: 1st Party/Petitioner

AND

The General Manager-HR
Indian Overseas Bank
P.B. No. 3765, Central Office
No. 762, Anna Salai
Chennai-600002

: 2nd Party/Respondent

Appearance:

For the 1st Party/Petitioner

:

Advocate, M/s K.M. Ramesh

For the 1st Party/Respondent

:

Advocate, Sri N. Somasundaar

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. M.No. 7/1/2020–A1 dtd. 20.02.2020 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Indian Overseas Bank, Chennai in imposing the punishment of dismissal from service on Sri M. Balasubramanian is legal and justified? If not, to what relief the concerned workman is entitled to?”

2. On receipt of the reference the case was registered as ID 14/2020 and due notices were issued to the parties for appearance on 01.04.2020. No progress was made in the proceeding till 28.09.2021 intervening 9 adjournments. None appeared on behalf of the Petitioner. However, taking into consideration of the hard situation of Pandemic COVID-19, no drastic step was taken in the case but the Petitioner was afforded with some more opportunities no sooner normalcy prevailed. The Petitioner was directed to file Claim Statement. The case was adjourned to 4 more dates till 03.03.2022. None appeared resulting adjournment to 25.04.2022. On that day, the Counsel for the Petitioner was present and highlighted about the registration of a 2A Application of the Petitioner in ID 12/2020. Thus, the case was accordingly listed to some other date for passing of appropriate order in this regard. On 06.06.2022 after verification of both the records, it is found that the Petitioner approached this Forum on an earlier occasion with his 2A(2) Application was registered. In order to duplication of the case, the earlier ID 12/2020 while stood dismissed on the point of maintainability, due order was passed to club up the said case with the instant ID 14/2020. The 2A(2) Application was treated as the Claim Statement and the Petitioner was directed to serve a copy to the Respondent and also to file further documents, if any. Thus, the case in hand was listed to 12.07.2022, 04.08.2022, 27.9.2022 and 01.11.2022 directing the Petitioner to serve the copy of the Claim Statement to the Respondent. No proof of service was filed by the Petitioner till 01.11.2022. The case was listed to 26.12.2022, 02.02.2023 and then to 27.03.2023. The Petitioner did not appear not furnished Proof of Service to the Respondent. No Time Petition was filed. The Counsel for the Respondent found to have appeared in this case even after the clubbing up the ID 12/2020 with 14/2020 vide the Tribunal's Order dtd. 06.06.2022.

3. It reveals that despite of several opportunities, though were made available to the Petitioner to serve the copy of the Claim Statement to the Respondent, he chose not to comply the direction of the Tribunal. It deems the Petitioner is not interested with the case. The non-participation / cooperation of the Petitioner/Applicant, the case is simply dragged for more than 3 years from the date of registration. It is felt proper not to re-schedule the case to any other date but to reserve the case for final order.

In view of the discussion held in preceding paragraph, the case is liable for dismissal.

In the result the ID case stands dismissed.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1509.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्सई के पंचाट (38/2016) प्रकाशित करती है।

[सं. एल-39025/01/2023-आईआर(बी-II)-42]

सलोनी, उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.38/2016) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-39025/01/2023 - IR(B-II)-42]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL, CHENNAI

ID No. 38/2016

**Present: DIPTI MOHAPATRA, LL.M.
PRESIDING OFFICER**

Date: 26.06.2023

Sri B. Selvakumar
S/o Balakrishnan
Old No. 53, New No. 295, Thirupalthurai
Panayapuram
Thiruvalarsolai Post
Trichy-620005

: Petitioner

AND

1. The General Manager
Punjab National Bank
Bhikshandar Koil Branch
No. 1, Toll Gate
Trichy-621216

: First Respondent

2. The Deputy General Manager
Punjab National Bank
Circle Office (HRD)
Trichy-620014

Presently at:

Khandha Enclave
179, Sarojini Street
Ramnagar
Coimbatore-641009

: Second Respondent

Appearance:

For the 1st Party/Petitioner : Advocates, M/s S. Arunachalam & Associates
For the 1st & 2nd Respondent : Advocate, Sri S. Jayaraman

AWARD

This is an Application under 2A(2) of the Industrial Dispute Act.

2. The Applicant raises the dispute challenging the denial of his job as Part-Time Sweeper / Peon by the First Respondent Bank since 30.06.2015.

The case of the Applicant in brief is that he was appointed as Part-Time Sweeper / Peon in the First Respondent Bank on 07.03.2011. He was all along doing the menial work such as Sweeping, Cleaning and File Stitching, etc. at par with the job profile of a Messenger or a Peon with initial remuneration paid on daily basis. He was sponsored by the Employment Exchange, Trichy. But the Respondent never recognized the duties discharged by the Applicant nor was paid with equal time-scale wage at par with regular employees. The Respondent never considered to absorb the Applicant in full time job but on the other hand despite of his continuance in job for 4 years, 3 months and 25 days, the Applicant was denied the job on 30.06.2015 without prior intimation. It is further contended that as per the Bipartite Settlement dtd. 19.10.1996 when the Applicant has completed 5 years unblemished service need to be afforded with preference for filling up the permanent vacancies. It is further contended that when some vacancies arose the Applicant made oral and written representations to place him on the full time job in place of part-time job. The First Respondent Bank though recommended his name for such post, the Second Respondent did not consider his case, but resorted to direct recruitment of subordinate cadre posts with prescription of higher qualification, age limit, etc. vide publishing necessary advertisement in Tamil Daily i.e. "Thanthi" on 03.12.2014. The advertisement was for filling up of 80 permanent vacancies in Trichy Circle.

3. It is further pleaded that the denial / termination from job of the Applicant, without prior notice amounts to retrenchment within the purview of Section 2(oo) of the ID Act. The Applicant / Petitioner was seriously affected financially and mentally for no fault of him. He raised the dispute before the Conciliation Officer – Asstt Labour Commissioner (C), Puducherry. The dispute since could not be resolved at the said forum, the Applicant approached this Tribunal seeking relief of his reinstatement in service with backwages and all other attendant benefits and regularization of his service from the date of his appointment

4. Both the Respondents entered appearance by filing Common Counter Statement traversing almost all the pleadings except the admitted facts. The main plank of contention is that the Applicant / Petitioner is not a Workman within the purview of 2(s) of the ID Act. There exists no relationship of Employer-Employee between the Respondents and the Petitioner. The service condition of the workmen / employees of the Banking Industry including the Respondent Bank are governed by Sastry Award and Desai Award and also various Bipartite Settlements. As per the Respondent's Bank Rules, the case of the candidates sponsored by the Employment Exchange is only to be considered for such employment. In view of the settlement dtd. 07.05.1984 reached by the All India PNB Employees Federation and the Bank which was circulated vide Circular No. 772 dtd. 17.05.1984 clearly speaks about the procedures to be followed unless Thikana system is prevailed in the particular area. The said circular also prescribes

that the recruitment of Part-Time / Full-Time Sweepers shall be as per the eligibility criteria laid down by the Bank from time to time. In supersession of the said circular, the Bank had issued another PAD Circular dtd. 72 dtd.11.02.2012 which also provides for Rules regarding the eligibility for posting of Part-Time Sweepers in various branches. It is further contended that no right exists for any person to claim regularization / absorption in Bank de hors the Bank's Rules and Guidelines. The Respondent(s) specific pleading is that the Petitioner / Applicant was never appointed on 07.03.2011 or terminated from service on 30.06.2015. There was no Service Agreement in between the Bank and the Petitioner. The claim of the Applicant is not sustainable in the eye of law. The Petitioner / Applicant is not entitled to any relief as sought for.

5. In support of their respective pleadings, both parties adduced oral as well as documentary evidence. The Petitioner, V. Selvakumar while examined himself as WW1, adduced evidence through one L. Shankaravadivelu as WW2. The Petitioner relied on 42 documents marked as Ext.W1 to Ext.W42. The Respondent examined the Manager (HR), Sri Mitra Teja as MW1 and produced 6 documents marked as Ext.M1 to Ext.M6.

The pleadings of both parties, brings out the following issues for determination:

- (i) Whether the Applicant is a Workman within the purview of 2(s) of the ID Act.
- (ii) Whether there exists relationship of Employer-Employee in between the Respondent and the Petitioner.
- (iii) Whether the Applicant was terminated without prior notice?
- (iv) To what relief the Applicant / Petitioner is entitled to?

Issues (I) & (II)

6. Since the Issues I & II are interlinked inter alia are taken up together. Both the Witnesses WW1, the Petitioner and WW2 adduced evidence in support of the pleadings of the Claim Petition. The Petitioner states to have joined the Respondent Bank on 07.03.2011 as Part-Time Sweeper / Peon and all along doing the menial work such as Sweeping, Cleaning and File Stitching, etc. at par with the job profile of a Messenger or a Peon. The initial remuneration was paid to him on daily basis at the rate of Rs. 150/-. But the Respondent never recognized the duties discharged by the Applicant nor was paid with equal time-scale wage at par with regular employees. The Respondent never considered to absorb the Applicant in full time job. But on the other hand despite of his continuance in job for 4 years, 3 months and 24 days, the Applicant was denied the job on 30.06.2015 without prior intimation. In view of the Bipartite Settlement dtd. 19.10.1996, the Applicant is entitled to get the preference to fill up the permanent vacancy when completes 5 years of service. His representation in this regard was never considered. WW2 viz. Shri L. Shankaravadivelu, one retired Clerk of Respondent's Bank now holds the post of the General Secretary of "Punjab National Employees Union" which is affiliated to "All India Bank Employees Association" adduces evidence in support of the Petitioner. He categorically states to have rendered 25 years of service in the Respondent Bank till his superannuation in the year 2019. He has direct knowledge that since the engagement of the Petitioner on dtd. 07.03.2011 as a Temporary Employee in the Respondent's Bank, his service was utilized for whole day. The Petitioner was not only doing the menial work such as Sweeping, Cleaning, etc. but was paying Electricity and Telephone Bills, Clearing Cheques and Courier and also sometimes escorted the Staff for refill of ATM and many more works, as good as the job of a Permanent Employee. But the Applicant was never been paid wages / remuneration at par with a Permanent Employee.

7. The Respondent on the other hand adduces evidence through the Manager (HR), Mitra Teja who denies the pleadings of the Petitioner and the statement of both the Witnesses. In support of the contentions made in Counter Statement, it is stated that the Petitioner cannot plead to project himself as a "Workman" within the purview of Section-2(s) of the Industrial Disputes Act, as much as he was engaged of and on whenever exigencies arose on the part of the local Branch Manager who lacks any authority to give appointment to anyone. The Applicant on the other hand has been adequately paid for his service rendered for the Branch. There exists no Employer-Employee relationship in between the Respondents and the Petitioner. The claim of the Petitioner amounts to backdoor entry thus the claim for reinstatement with back wages is not sustainable. In view of the discussion held in preceding paragraphs with regard to the pleadings of the parties, it is to be seen if the Petitioner is a "Workman" within the purview of the Act and if there exists any Employer-Employee relationship in between the Petitioner and the Respondent.

8. In this context the documents filed by the Petitioner are taken into consideration. It reveals a number of documents under the caption of "Voucher being handled" under Ext.W1 to Ext.W4 for the year 2011, Ext.W5 for the year 2012, Ext.W13 to Ext.W15 and Ext.W19 for the year 2013, Ext.W21 to Ext.W23 and Ext.W26 to Ext.W28 for the year 2014 are produced by the Petitioner. In a similar manner some documents with the caption "Contents of vouchers stitched" are produced by the Petitioner those are Ext.W7 to Ext.W12, Ext.W16 and Ext.W17 consisting of 12 sheets are copies of some expenditure sheets covering the period 2013 to 2015. The Petitioner also produced the documents under Ext.W6 dtd. 14.07.2012, Ext.W18 dtd. 25.10.2013 and Ext.W30 dtd. 07.03.2014 which are the forwarding letters by the then Branch Manager and Incharge wherein the representations / applications of the Petitioner were forwarded to the Circle Head, Trichy for consideration of the Petitioner for Permanent Post. Ext.W31 (consisting of 7 sheets) are the PNB Statement of Account showing entries of amount credited for the period from 29.12.2012 till 03.05.2014 towards cleaning charges. The application (Tamil language) dtd. 08.05.2014 is enclosed with the Bio-Data are marked as Ext.W32 and Ext.W33.

9. The proposal initiated by the General Secretary vide Ext.W34 dtd. 12.02.2015 was sent to the General Manager (P&A) to fix the educational criteria for the post of Peon as minimum 8th Standard instead of 10 + 2. It reveals thereafter the Petitioner made an Application for Permanent Post which was forwarded by the Branch Manager vide letter dtd. 09.05.2015 to the Circle Head for considering him on Permanent Post vide Ext.W35. The General Secretary sent a letter to the temporary staff members on dtd. 27.05.2015 vide Ext.W36 to provide the details in pursuant to Ext.W35. A Special Recruitment Drive was initiated by the Circle Office, Trichy vide Ext.W37 for recruitment to fill the post. After termination the Petitioner moved the Branch Manager and the General Manager vide his letters dtd. 07.02.2016 separately under Ext.W38 and Ext.W39 for consideration on Permanent Post. Ext.W40 is the Circular dtd. 31.05.2017 issued by the Head Office for recruitment of Workman Staff (other than Godown Keeper). Ext.W41 and Ext.W42 are the extracts of 8th and 9th Bipartite Settlements.

10. In view of the discussion held supra, when the engagement of the Petitioner in the Respondent's Bank as a Part-Time Sweeper on 07.03.2011 stands disputed, being thoroughly challenged, the onus of proof heavily lies on the Petitioner. Admittedly, the Petitioner though has produced a bunch of documents under Ext.W1 to Ext.W4, Ext.W5, Ext.W13 to Ext.W15 and Ext.W19, Ext.W21 to Ext.W23 and Ext.W26 to Ext.W28 can in no way rescue the Petitioner. Moreover, Ext.W16 and Ext.W17 consisting of 12 sheets are the copies of some expenditure sheets covering the period 2013 to 2015. These documents also do not substantiate the claim of the Petitioner to have been engaged on 07.03.2011

11. On the other hand inference can be drawn in favour of the Petitioner in view of vide Ext.W6, Ext.W18, Ext.W30 and Ext.W35 which are forwarding letters in respect of the Applications of the Petitioner to consider him for the Permanent post of Sweeper. The respective Branch Managers while forwarding the Applications vide their forwarding letters under the above exhibits categorically mentioned that the Petitioner has been serving as Part-Time Sweeper since the opening of the Branch i.e. 07.03.2011. Ext.W31 (consisting of 7 sheets) are the PNB Statement of Account showing entries of amount credited for the period from 29.12.2012 till 03.05.2014 towards cleaning charges.

12. In view of the discussion held in preceding paragraphs, it is held that the Petitioner was engaged as a Part-Time Sweeper from 07.03.2011 and thus is a "Workman" as defined under 2(s) of the ID Act. It is also an admitted fact that even though the Petitioner fails to link up the chain to prove his continuity in Temporary Post from the date of joining i.e. 07.03.2011 till his oral termination (as claimed) on 30.06.2015, the PNB Bank Statement (Ext.W31) as stated above establishes that his engagement is in continuation till 03.05.2014. This document shows that the Bank credited the Clearing Charges to the Petitioner's Account. The claim of the Petitioner regarding the disbursement of the remuneration / dues by the Respondent's Bank credited to his Bank Account for the period from 29.12.2012 to 03.05.2014 stands undisputed since not being challenged by the Respondent. In the fact and circumstance, it is held that there exists Employer-Employee relationship in between the Respondents and the Petitioner.

The Issues (i) & (ii) are answered in favour of the Petitioner.

Issues (III) & (IV)

13. The undisputed admitted fact remains that the Petitioner was never issued with an Appointment or Termination Letter. However, the claim of the Petitioner regarding his engagement in the Respondent's Bank on 07.03.2011 has been amply proved through the documents as discussed above but at the same time the Petitioner failed to produce a single scrap of document to prove his continuity in job till his oral termination on 30.06.2015. In this context, it is pertinent to mention that the documents (Bank Statement) exhibited under Ext.W31 discloses the disbursement of the remuneration / dues credited to the Bank Account of the Petitioner by the Respondent for the period from 29.12.2012 till 03.05.2014 continuously.

14. The argument advanced by the Learned Counsel for the Petitioner claiming the Permanent Post in view of Bipartite Settlement dtd. 19.10.1996 has got no force as much as the claim of the Petitioner itself is that he had served only for 4 years, 3 months and 24 days. This part of his contention is also not accepted in view of the discussion held supra. No document since filed to link up the chain of continuity of his engagement from the date of 03.05.2014 till his claim of oral termination on 30.06.2015, the argument of the Learned Counsel regarding the service rendered by the Petitioner for a period of 4 years, 3 months and 24 days is also not accepted. Some other documents since not applicable to the case of the Petitioner are not discussed.

15. Thus, in absence of any cogent evidence the claim of the Petitioner to have worked continuously from the date of joining till 30.06.2015 cannot be accepted, but the entries in his Bank Account Ext.W31 just cannot be brushed aside. In the peculiar circumstance, inference can be drawn (in view of the entries reflected in Ext.W31) that the Petitioner was disengaged on 03.05.2014, as no further entries were made available in the Bank Account regarding the credit entries. Since both the parties failed to produce any notice of termination / disengagement, the last entry in Ext.W31 i.e. 03.05.2014 is necessarily taken into account that the Petitioner was disengaged on 03.05.2014. It deems the Petitioner worked for 240 days continuously preceding to the date of disengagement i.e. 03.05.2014. Such disengagement **without Prior Notice or Notice Pay** amounts to termination and attracts Section-25(f) of the ID Act. Such disengagement undoubtedly might have caused severe financial hardship to the Petitioner to maintain his livelihood as well as such act of the Respondent Management denying job that too at the middle age of a Petitioner certainly would have also caused mental agony. Such abrupt action of the Respondent Management is found unethical, illogical and defeats the principles of natural justice. The Petitioner is accordingly is entitled to the relief as sought for.

16. In view of the discussions held in preceding paragraphs, since the Petitioner was employed on a Temporary Post and the post was never been converted to a Permanent Post, it would be impossible on the part of the Respondent to reinstate the Petitioner as the relief sought for. In the circumstance, in lieu of reinstatement and backwages, the Petitioner is entitled to be compensated with a lumpsum amount of Rs. 1,35,000/- (Rupees One lakh Fifty thousand only) which would best serve the purpose.

The Issues (iii) & (iv) are answered in favour of the Petitioner.

The ID stands allowed.

17. In the result, the Respondent is directed to pay Rs. 1,35,000/- (Rupees One lakh Thirty fifty thousand only) as compensation in lieu of reinstatement and backwage to the Petitioner, Sri B. Selvakumar within a period of two months from the date of notification in the Gazette, failing which the Respondent is liable to pay 9% of Interest on it from the date of Order till the date of payment.

DIPTI MOHAPATRA, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	WW1, Sri B. Selvakumar
	:	WW2, Sri L. Sankaravadivelu
For the 2 nd Party/Management	:	MW1, Sri Mitra Teja

Documents Marked:-

On the petitioners side

Ex.No.	Date	Description
Ex.W1	12.08.2011	Voucher being handled by B.Selvakumar
Ex.W2	16.08.2011	Voucher being handled by B.Selvakumar
Ex.W3	28.10.2011	Voucher being handled by B.Selvakumar
Ex.W4	10.11.2011	Voucher being handled by B.Selvakumar
Ex.W5	13.01.2012	Voucher being handled by B.Selvakumar
Ex.W6	14.07.2012	Letter to consider the representation of B.Selvakumar
Ex.W7	01.09.2012	Contents of Vouchers stitched by B.Selvakumar
Ex.W8	03.09.2012	Contents of Vouchers stitched by B.Selvakumar
Ex.W9	01.10.2012	Contents of Vouchers stitched by B.Selvakumar
Ex.W10	31.10.2012	Contents of Vouchers stitched by B.Selvakumar
Ex.W11	01.11.2012	Contents of Vouchers stitched by B.Selvakumar
Ex.W12	02.11.2012	Contents of Vouchers stitched by B.Selvakumar
Ex.W13	01.02.2013	Contents of Vouchers stitched by B.Selvakumar
Ex.W14	02.02.2013	Voucher being handled by B.Selvakumar
Ex.W15	04.02.2013	Voucher being handled by B.Selvakumar
Ex.W16	08.04.2013	Expenditure and Payment register
Ex.W17	10.04.2013	Expenditure and Payment register
Ex.W18	25.10.2013	Application of B.Selvakumar been forwarded
Ex.W19	31.10.2013	Voucher being handled by B.Selvakumar
Ex.W20	24.12.2013	Request for posting by B.Selvakumar forwarded by Manager
Ex.W21	15.02.2014	Voucher being handled by B.Selvakumar
Ex.W22	17.02.2014	Voucher being handled by B.Selvakumar
Ex.W23	17.02.2014	Voucher being handled by B.Selvakumar
Ex.W24	22.02.2014	Memorandum for absorption
Ex.W25	24.02.2014	Conversion of PTS as Peons
Ex.W26	26.02.2014	Voucher being handled by B.Selvakumar
Ex.W27	27.02.2014	Voucher being handled by B.Selvakumar
Ex.W28	28.02.2014	Voucher being handled by B.Selvakumar
Ex.W29	04.03.2014	Circular regarding absorption of PTS
Ex.W30	07.03.2014	Forwarding the application of B.Selvakumar
Ex.W31	05.05.2014	Pass Book Entries B.Selvakumar
Ex.W32	08.05.2014	Application from B.Selvakumar
Ex.W33	09.05.2014	Biodata of B.Selvakumar
Ex.W34	12.02.2015	Education qualification to Peons

Ex.W35	09.05.2015	Manager forwarding the application of B.Selvakumar
Ex.W36	27.05.2015	Letter from General Secretary from the Union
Ex.W37	01.07.2015	Special Recruitment trivet of Peons
Ex.W38	07.02.2016	Demand of Employment after Termination to the Branch Manager by B.Selvakumar
Ex.W39	07.02.2016	Demand of Employment after Termination to the General Manager by B.Selvakumar
Ex.W40	31.05.2017	Circular from the General Secretary of the Employees Federation
Ex.W41	-	Relevant Portion of 8 th bipartite settlement
Ex.W42	-	Relevant Portion of 9 th bipartite settlement

On the Respondent side

Ex.No.	Date	Description
Ex.M1	07.05.1984	Settlement regarding fixation of wages and other Allied matters like Recruitment and Appointment.
Ex.M2	11.02.2012	Circular issued by the Respondent Bank regarding posting of Part-Time Sweepers in the Branch
Ex.M3	25.03.2014	Circular banning the Temporary Appointment in the bank.
Ex.M4	21.09.2015	Circular issued by the Bank with regard to the Recruitment and Appointment of Part-Time Sweeper.
Ex.M5	04.07.2016	HRMD Circular Letter dated 10/2016 issued by the Bank with regard to alternative mechanism in lieu of interview for recruitment of Full Time/Part Time Sweeper in Subordinate Cadre.
Ex.M6	28.11.2018	HRMD Circular No.430 banning the Temporary Appointment in the Bank.

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1510.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्ई के पंचाट (121/2014) प्रकाशित करती है।

[सं. एल-33011/04/2014-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.121/2014) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Chennai* as shown in the Annexure, in the industrial dispute between the management of The Madras Port Trust and their workmen.

[No. L-33011/04/2014 - IR(B-II)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT AND EPF APPELLATE TRIBUNAL CHENNAI

Present : **DIPTI MOHAPATRA, LL.M.**

PRESIDING OFFICER

I.D. No. 121/2014

Dtd: 07.08.2023

The General Secretary

The Madras Port Trust Employees Union

SCC Anthony Pillai Bhawan

No. 34 (Old No.), Second Line Beach

Chennai-600001

: 1st Party/Petitioner

AND

M/s Chennai Container Terminal Private Ltd.
Rep by its General Manager – HR/IR/Admin.
Chennai Port Trust Administrative Building
Ground Floor, No. 1, Rajaji Salai

Chennai-600001 : 2nd Party Management

Appearance:

For the 1st Party/Petitioner : Advocates, M/s Row and Reddy
For the 1st & 2nd Management : Advocates, M/s . Ramasubramaniam & Associates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-33011/04/2014-IR (B.II) dtd. 19.11.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of CCTL/DP World, Chennai regarding not extending the benefit of 15 item allowance as per Settlement dtd. 19.01.2011 to the Officer as claimed by the management is justifiable or not? What relief the employees involved in the dispute is entitled to?”

2. A little reference to the backdrop of the case needs mention that at the far end of the disposal of the proceeding, the Petitioner's Union came up with a Memo for Withdrawal of the case whereas the Hon'ble Court being approached by the Respondent in WP No. 8893/2017 and WMP No. 10060 of 2017 dtd 17.04.2017 imparted instruction to the Tribunal to go on proceeding but no Award can be passed without permission of the Hon'ble Court. In this context, the case in hand needs a little discussion with regard to the journey of the case proceeding.

3. That on receipt of the above reference from the appropriate Government, the same is registered as ID No. 121/2014. Notices were issued to both the parties for their appearance 29.12.2014 and subsequent dates. The Respondent entered appearance by filing Counter Statement. The Affidavit-Evidence was filed by Petitioner's Union and the case was adjourned to several dates for Cross Examination of the Petitioner by Respondent till 18.04.2017 when the Respondent submitted to have approached the Hon'ble Court in a Writ Petition No. 8893/2017 and sought for adjournment to produce the order of Hon'ble High Court of Madras. The case was accordingly adjourned to 04.05.2017. In between the copy of the order in W.P. 8893 Of 2017 and WMP No. 10060 of 2017 dtd 17.04.2017 of Hon'ble High Court was received by this Tribunal on 27.04.2017. The Hon'ble Court imparted direction that ;

“take notice for the second Respondent while proceeding can go on, no award can be passed without the permission of this Court “

4. In view of the Order of the Hon'ble Court when the matter was taken up to proceed with the case, was listed to several dates. But no progress was held in the proceeding as the post of Presiding Officer was lying vacant till 04.03.2019 when the Tribunal was functional as the vacant post of Presiding Officer was filled up. The proceeding was taken up for cross examination of Petitioner and listed to 02.04.2019 and thereafter to subsequent dates till 19.02.2020 as the Respondent sought for adjournments. Due to outbreak of the Pandemic COVID-19, there was no progress in the Proceeding till 30.08.2021. The Cross-Examination of the Petitioner could not be held as he himself with held to come to dock , not only on 30.08.2021 but on subsequent dates till 03.03.2022 intervening three dates. Since despite of several opportunities were made available to the Petitioner's Union, the Authorized Representative, the General Secretary of the Union choose not to co-operate the proceeding, his Examination-in-Chief (Proof of Affidavit) was expunged on 03.03.2022. The case of the Petitioner was closed. The Respondent was directed to file Affidavit-Evidence of their Witness. The case was listed to 02.05.2022 and to 02.08.2022 when the Respondent filed Affidavit-Evidence. The Examination-in-Chief of the MW1 was held on 17.10.2022. The Petitioner did not cross examine MW1, even though the case was adjourned to several dates (intervening almost 4 dates) till 18.04.2023. The cross examination was treated as Nil and the Respondent was directed to adduce further evidence, if any. The case was listed to 01.05.2023. On that day the learned Counsel for both parties were present. The Counsel for the Petitioner's Union files a Memo expressing the Union's willingness to withdraw the case. Since the General Secretary was not present, due direction was imparted to the General Secretary to remain present for hearing on the Withdrawal Petition from both sides. The case was listed to 04.05.2023 for hearing on the Withdrawal Petition. Since the Interim Order of Stay with regard to pass any final order without the permission of the Hon'ble Court, the Counsel for the Respondent (the Petitioner in WP) was directed to furnish the current status of the Writ Petition. The case was accordingly listed to 15.05.2023 when the Respondent Counsel fails to file the current status of the Writ Petition No. 8893/2017, files the copy of the Interim Order dtd. 17.04.2017 passed by the Hon'ble High Court in the aforesaid WP but sought for time to furnish the current status. The Respondent was accordingly directed to furnish the Status Report of the Writ Petition if any Vacation Order was passed so far the Order of Interim Stay dtd. 17.04.2017 is concerned. The case was listed to 30.06.2023. None appeared on behalf of the Petitioner Union. The Respondent Counsel is present and files Memo regarding the current status of Writ Petition No. 8893/2017 that the Hon'ble Court has dismissed the Writ Petition as Withdrawn vide Order dtd. 22.06.2023. The Web Copy is enclosed with the Memo. Accordingly, the case was listed for hearing the both parties on the Withdrawal Petition filed by the Petitioner. On that day, the Respondent Counsel was present but the General Secretary of the First Party Union was absent. However, the Counsel for the Respondent submitted that since the Writ Petition has already been dismissed on being Withdrawn, there is no rider on the Tribunal to pass any appropriate order on the Memo of Withdrawal filed by the Petitioner's Union. It is also submitted that the dispute has been resolved amicably. With the above backdrop, when the Respondent produces the Web Copy of the Order in WP No. 8893/2017 dtd. 22.06.2023, that the said Writ Petition was dismissed as Withdrawn by the Petitioner (the present Respondent). it deems there is no more restriction imposed on this Tribunal to pass the Final Order. The Web Copy is as follows ;

“Business : Dismissed as Withdrawal
 Nature of Disposal : Dismissed as Withdrawal
 Disposal Date : 22.06.2023”

In view of the Order passed by the Hon’ble Court dtd. 22.06.2023 in the WP (supra and as per Web Copy) above, the Memo of Withdrawal filed by the Petitioner Union is taken into consideration. Even though, the General Secretary of the First Party Union failed to appear before this Tribunal, the Learned Counsel for the First Party Union since moved the Petition for Withdrawal and when no objection was raised by the Respondent, it is held that there would be no legal impediment to pass appropriate order on Memo filed by the Petitioner’s Union for Withdrawal wherein it is stated by the Petitioner’s Union as follows:

“That during the pendency of the dispute, the member of the Union have taken a decision not to pursue the dispute further due to change in circumstances and to withdraw the same with liberty to raise as and when required”.

Similarly, the Learned Counsel for the Respondent raises no objection to the Memo of Withdrawal filed by the Petitioner Union. On the other hand, submits to pass appropriate order.

4. In view of the submission of the Authorized Representative / Counsels for both parties and discussion held supra, it is clear that there exists no dispute for adjudication. Hence, Memo filed by the First Party Union to withdraw the dispute in ID 121/2014 is allowed.

The ID No. 121/2014 stands dismissed as Withdrawn.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 16/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/84/2017-आईआर(सीएम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2017) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.**, and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/84/2017 - IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
 Presiding Officer,
 C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 16 OF 2017

PARTIES: Shiv Shankar Harijan.

Vs.

The General Manager, Satgram Area of ECL and Another.

REPRESENTATIVES:

For the Union/Workman: Mr. S. K. Pandey, Union representative.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 12.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/84/2017-IR(CM-II)** dated 16.11.2017 has been pleased to refer the following dispute between the employer, that is (i) The General Manager, Satgram Area, Eastern Coalfields Limited, (ii) The Agent, J. K. Nagar (R) Colliery under Satgram Area, Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. Eastern Coalfields Ltd. in relation to its J.K.Nagar Colliery under Satgram Area in not regularising the workman Shri Shiv Shankar Harijan as UG Trammer in Piece Rate Category in contravention of office order No. ECL/JKN/AGENT/PER/2003/298 dated 01/03/02.2003 is just and legal? if not, to what relief the workman is entitled to?”

1. On receiving Order **No. L-22012/84/2017-IR(CM-II)** dated 16.11.2017 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 16 of 2017** was registered on 28.11.2017 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the Management of Eastern Coalfields Limited appeared along with Mr. Subir Dey for his examination as Management witness -1. On repeated calls at 12:55 PM none appeared for Shiv Shankar Harijan, the workman. The case is fixed up today for evidence of workman witness. Mr. S. K. Pandey, union representative is not found available. On the earlier occasion an order was passed on 23.12.2022 directing Mr. Pandey to remain present and produce the workman for evidence and in default, the case shall be disposed of in the form of No Dispute Award.

3. The case was registered on 28.11.2017 and Notice were issued to both parties. Shiv Shankar Harijan filed written statement on 12.03.2018 and the Management of Eastern Coalfields Limited filed written statement on 10.10.2022. The Management also filed affidavit-in-chief of Mr. Subir Dey. Since the aggrieved workman has not taken any steps from 26.11.2018 onwards, it appears to me that he is not inclined to proceed further with this case. The Industrial Dispute referred to this Tribunal is accordingly disposed of in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer,

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडीग्रेटेड कोल माइनिंग लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 06/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/1/2014-आईआर(सीएम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 06/2014**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **Integrated Coal Mining Limited** and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/1/2014 - IR(CM-II)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 06 OF 2014

PARTIES: Debnath Chakraborty
Vs.
Management of Integrated Coal Mining Limited & Another

REPRESENTATIVES:

For the Union/Workman: None.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 05.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/1/2014-IR(CM-II)** dated 18.03.2014 has been pleased to refer the following dispute between the employer, that is the Management of Integrated Coal Mining Limited & P.L.R. Projects Private Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the dismissal of the workman Sri Debnath Chakraborty S/o Kushadhaj Chakraborty from service by the Management of I.C.M.L, Sarisatoli Open caste Project Mine site office, Kapista, Distt. Burdwan is legal and justified? If not, to what relief the workman concerned is entitled to?”

1. On receiving Order **No. L-22012/1/2014-IR(CM-II)** dated 18.03.2014 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 06 of 2014** was registered on 03.04.2014 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned Advocate for Management of Integrated Coal Mining Limited, Sarisatoli Open Caste Project Mine, Kapista and P.L.R. Projects Private Limited is present. The case is fixed up today for cross examination of Debnath Chakraborty, the workman witness. Despite notice issued to the workman under registered post at his address appearing in his affidavit-in-chief, the workman failed to turn up on consecutive dates. Initially Mr. Aninda Chakraborty, learned advocate appeared for the workman but he is not found available on call today at 12:25 PM.

3. After registration of case on 07.07.2014, written statements were filed by the workman as well as on behalf of the employer. The case was fixed up for evidence. On 15.09.2015, Debnath Chakraborty filed his affidavit-in-chief along with documents. Since 07.09.2016 none appeared for the workman until 29.11.2017 when the examination in chief was not pressed. The case is pending for nine years but the witness has not turned up for cross-examination.

Under such circumstances, it appears to me that the aggrieved workman is not inclined to proceed with this Industrial Dispute. Accordingly, the Industrial Dispute is dismissed in form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer,

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल** के पंचाट (संदर्भ संख्या 08/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/457/2004-आईआर(सीएम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 08/2006**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.**, and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/457/2004-IR(CM-II)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 08 OF 2006

PARTIES: Ranjit Mahali

Vs.

Management of Satgram Project under M/s. Eastern Coalfields Limited

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress

For the Management: Mr. P. K. Goswami, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 09.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/457/2004-IR(CM-II)** dated 24.05.2006 has been pleased to refer the following dispute between the

employer, that is the Management of Satgram Project under Eastern Coalfields Limited and Ranjit Mahali, the dependant son of Late Lachmi Mahali for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of Satgram Project under Satgram Area of M/s. ECL in denying employment to Shri Ranjit Mahali, dependant son of Late Lachmi Mahali, Ex- Wagon Loader is legal and justified? If not, to what relief the dependant son is entitled?”

1. After receiving Order No. L-22012/457/2004-IR(CM-II) dated 24.05.2006 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 08 of 2006** was registered on 31.07.2006. Notices were issued to the Management of Eastern Coalfields Limited as well as the union representative of Koyala Mazdoor Congress representing the dependant of the deceased workman, directing them to file their written statement of claim along with relevant documents and list of witnesses.

2. On 02.12.2009, a written statement was submitted by the union representing the dependant of deceased workman. It has been averred that Lachmi Mahali, a permanent employee of the company who was posted as a wagon loader at Satgram (R) Colliery died on 21.06.1993 while in service. It is contended that as per provisions of clause 9.4.0 of NCWA IV, Ranjit Mahali, son of deceased employer who applied for providing employment against death of his mother is entitled to employment on compassionate ground. Further case of the union is that Ranjit Mahali had submitted documents before the Management of ECL and after proper screening, the dependant son of Lachmi Mahali was sent for Initial Medical Examination where he was declared fit for the job. After screening and Initial Medical Examination, proposal for employment of Ranjit Mahali was sent to ECL Headquarters for approval but the Management of the company communicated nothing and the of dependant son of Lachmi Mahali is still waiting for employment. The version of the workman is that the Management of the company has neither provided employment to the dependant son nor did they reject the proposal. It is contended that Ranjit Mahali is facing starvation as he has no means of sustenance and wasted several years entangled in this dispute. It is the case of the union that the Management signed a Tripartite Settlement before the RLC (C) and ALC (C), Asansol on 22.05.2007 and 23.05.2007 in which it was agreed that the cases which were pending prior to 01.07.1996 would be considered and the delay in claiming employment after death of deceased employee would be ignored. It is urged that Management of Satgram Project is deliberately delaying the matter and not providing employment to dependant of Lachmi Mahali according to the terms of NCWA, thereby depriving the dependant from his legitimate claim and right.

3. The Management of ECL has filed a written statement denying the locus standi of union to represent the case. It is claimed that Lachmi Mahali died on 21.06.1993 but the union raised the dispute in 2002 after lapse of a decade. It is stated that an application dated 11.09.1993 was submitted by Ranjit Mahali along with few documents claiming himself to be dependant son of Lachmi Mahali. It is contended that the applicant could not produce any satisfactory material that he is the son of the deceased employee Lachmi Mahali making him eligible for an employment on the death of Lachmi Mahali. The Management of ECL has denied the claim of Ranjit Mahali on the ground that it is not a statutory right of a survivor of a deceased employee to have any employment but it is provided to one of the dependants of the bereaved family on compassionate ground if he is otherwise fit for employment. It is urged that Ranjit Mahali was not found fit and that he did not submit his application within six months of death of Lachmi Mahali. According to the Management, the Industrial Dispute raised by the union is liable to be dismissed.

4. Ranjit Mahali adduced evidence by examining himself as WW-1. He filed an affidavit-in-chief on 26.03.2013 and was cross examined on 18.06.2013. It was found that apart from the oral testimony of the petitioner, no documents related to service of his mother or correspondence between the dependant son and the Management of ECL was filed. Subsequently on the prayer of the union, Ranjit Mahali was recalled for his re-examination on 29.11.2022. In course of his evidence on re-examination, he produced :

- (i) Copy of death certificate of his mother (marked as Exhibit W-I)
- (ii) Copy of death registration certificate of Lachmi Mahali (marked as Exhibit W-II)
- (iii) Copy of letter dated 21.09.1996 issued by Personnel Manager, Satgram Project addressed to the Area Medical Officer for holding Initial Medical Examination of Ranjit Mahali (marked as Exhibit W-III)
- (iv) Letter dated 05.05.2001 issued by Dy. Personnel Manager, Satgram Project addressed to the Personnel Manager, Satgram Area informing that Ranjit Mahali was found fit for any job in the mine (marked as Exhibit W-IV)
- (v) Letter dated 21/22.05.2001 issued by Personnel Manager, Satgram Area addressed to Dy. Personnel Manager, Satgram (R) Colliery where it is stated that though it is a belated case but the proposal for employment of Ranjit Mahali may be processed (marked as Exhibit W-V)
- (vi) Copy of application of Ranjit Mahali addressed to the Agent, Satgram Project (marked as Exhibit W-VI)
- (vii) A Xerox copy of Voter ID card (marked as Exhibit W-VII)
- (viii) An official direction of Director (Personnel & IR) dated 25.07.2003 (marked as Exhibit W-VIII)

Service book of Lachmi Mahali produced by ECL is marked as Exhibit M-I. An application of Ranjit Mahali claiming payment of money in respect of Life Cover Scheme of his mother is marked as Exhibit M-II and his signatures on the Indemnity Bond submitted before the company is marked as Exhibit M-III.

5. Ample opportunity was provided to the Management of ECL for adducing their evidence from 25.11.2014 to 13.12.2016 but the Management chose not to adduce any evidence in their attempt to justify their action in not allowing the claim for employment. Though the employer company is the custodian of all correspondence and service documents, they have refrained from placing the same before this Tribunal. On 14.09.2022, ECL was directed to produce the Service Records, Claim application and No Objection of other legal heirs lying with the company. A few documents were produced which were admitted in evidence at the time of re-cross-examination of Workman Witness-1.
6. The point for consideration at this stage is whether Ranjit Mahali, the son of late Lachmi Mahali is entitled to any employment under Eastern Coalfields Limited in consonance with the provision laid down in clause 9.4.0 of NCWA IV.
7. Admittedly, Lachmi Mahali was a permanent employee, posted as wagon loader at Satgram (R) Colliery and she died in harness on 21.06.1993, giving rise to a cause of action to the dependant son to lay claim for employment. Service Record Excerpt of Lachmi Mahali has been produced as 'X' for identification, which indicates that Ranjit Mahali was twelve years of age at the time when the form was filled up in the year 1987. His age appears to have been recorded as eleven years in the year 1986 as appearing in the Form for availing LTC. From the evidence on record, it is gathered that on 21.09.1996, the Personnel Manager of Satgram Project had issued a letter to the Area Medical Officer of Satgram Area Hospital forwarding the names of nominees of the deceased employees for holding Initial Medical Examination for employment under para 9.4.2 (death case). The name of Ranjit Mahali appears against serial no. 4. in that letter. It is obvious that on the basis of a claim made by the dependants of the workman, the name of Ranjit Mahali was nominated for his Initial Medical Examination.
8. In another letter dated 05.05.2001 (Exhibit W-IV) issued by Dy. Personnel Manager, Satgram Project, addressed to the Personnel Manager, Satgram Area it was communicated that Ranjit Mahali, son of Lachmi Mahali had applied for employment against the death of his mother and the proposal had been pending since long and have been dealt by the then Personnel Manager, Satgram Project (Sri A.C. Das Sarkar). In his letter he stated that the proposal was revived on frequent approaches by the claimant and thereafter the Area Medical Officer, Satgram Area was advised to hold an Initial Medical Examination in respect of the dependant and accordingly Initial Medical Examination was done and the dependant was declared "Fit for any job in Mine". On a close reading of the document (Exhibit W-IV), I find that all formalities for the purpose of providing employment to Ranjit Mahali had been completed and a checklist of documents was provided but the proceeding stopped at that stage without further progress.
9. In reply to the letter dated 05.05.2001 (Exhibit W-IV) of the Dy. Personnel Manager, the Personnel Manager, Satgram Area stated that though "it is a belated case, never-the-less proposal may be processed completing in all respect mentioning therein the details regarding delay so that we can send the same to the higher authority for their kind perusal and necessary action in that regard". After all such culmination, the finality has come to a grinding halt due to the inaction on the part of the management of ECL, rendering the entire exercise futile.
10. Ranjit Mahali's year of birth appears to be 1975 and he was found medically fit and eligible for performing any job in the mines. Valuable time in the life of the dependant son has been wasted due to the failure on the part of the Management of ECL to arrive at a collective decision on this issue in 30 years, oblivious of the essence of time in a person's life. The Management of ECL is duty bound to honour its own decision reflected in various clauses of NCWA. According to para 9.4.0 of NCWA IV, the employer company is bound to provide employment to one of the dependants of the worker who died in course of employment and the dependant to be considered for employment should be physically fit, suitable for employment and not more than 35 years at the time of death of the workman. In the present case, the petitioner Ranjit Mahali was within the stipulated age limit and below 35 years on 21.06.1993. The Management of ECL has acted in a wrongful and arbitrary manner by not providing suitable employment to Ranjit Mahali after holding IME. Accordingly the Management of Satgram Project, ECL is directed to grant employment to Ranjit Mahali and complete the entire proceeding within two months from the date of notification of this Award. In case any further delay is caused, the ECL company shall be liable to pay damages at the rate of Rs. 10,000/- per month till the dependant of deceased workman is placed in the service roll of the company.
11. In the light of my findings, the Industrial Dispute is decided in favour of Ranjit Mahali, dependant of the deceased workman.

Hence,

ORDERED

the Industrial Dispute is decided in favour of Ranjit Mahali, the dependant son of the deceased employee Lachmi Mahali. Let an Award be drawn in favour of dependant petitioner directing the Management of Satgram Project under Eastern Coalfields Limited for providing suitable employment to Ranjit Mahali within two months from the date of notification. In default, the company (E.C.L.) will be liable to pay damages to Ranjit Mahali at the rate of

Rs. 10,000/- per month until the employment proceeding is completed. Let copies of this Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer,

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 72/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/154/2007-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2007) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of E.C.L, and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/154/2007-IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 72 OF 2007

PARTIES: Murtaza Ali

Vs.

Management of Chinakuri III Pit Colliery, ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal

STATE: West Bengal.

Dated: 06.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/154/2007-IR(CM-II)** dated 18.09.2007 has been pleased to refer the following dispute between the employer, that is the Management of Chinakuri III Pit Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Chinakuri III Pit Colliery of M/s. ECL in dismissing Shri Murtaza Ali w.e.f. 02.01.2002 is legal and justified? If not, to what relief is the workman entitled? ”

1. On receiving Order No. L-22012/154/2007-IR(CM_II) dated 18.09.2007 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 72 of 2007** was registered on 01.10.2007 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. Mr. P. K. Das, learned advocate for the Management of Eastern Coalfields Limited is present. Mr. Rakesh Kumar, Union representative of the workman appears and submits that Murtaza Ali, the dismissed workman has expired but his legal representatives did not contact him. It is further submitted that the Industrial Dispute may be dismissed.
3. The case was registered on 01.10.2007 for adjudicating the question as to whether the dismissal of Murtaza Ali w.e.f. 02.01.2002 is legal and justified. Written statement was filed by Mr. R. K. Tripathi, Union representative claiming that his dismissal was illegal. Murtaza Ali filed affidavit-in-chief and was cross-examined on 26.03.2011. No documents relating to Enquiry Proceeding has been produced by the workman in course of his evidence.
4. Written Statement was submitted by the Management of Eastern Coalfields Limited denying the allegations. It is stated that the fairness of the Enquiry Proceeding was required to be decided as preliminary issue and if the Tribunal holds that the Enquiry Proceeding is unfair for any reason in that event the Management may be given an opportunity to prove the charges on merit.
5. On 13.06.2013 Management declined to adduce any evidence and the case was fixed up for hearing of argument. At this stage due to non-impleading of the legal heirs of the deceased workman Murtaza Ali the case cannot be disposed of on merit. After ample opportunity given to the legal representative of dismissed workman and the union no step has been taken for substitution of the legal heirs. In the above premises, the case is dismissed for default.

Hence,

ORDERED

that the Reference case is dismissed. An award be drawn up in the light of the above finding. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह-श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 25/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/5/2019-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 25/2019**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023.

[No. L-22011/5/2019-IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE
BEFORE THE HON'BLE COURT OF CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
LUCKNOW

PRESENT
 JUSTICE ANIL KUMAR
 PRESIDING OFFICER

I.D. No. -25/2019

Ref. No.-L-22011/5/2019-IR(CM-II), Dt. 13.05.2019

Sri Abdul Khalik S/o late Hasan Mehandi
 450/75, Muftiganj, Dareevali Gali,
 Post-Chauwk Lucknow-226003

..... Applicant

VERSUS

1. The Regional Manager
 FCI, 07 R, Dalibag,
 Lucknow, 226001
2. The General Manager
 U.P. FCI, TC/3V
 Vibhuti Khand, Gomti Nagar, Lucknow-226010
 Lucknow-226003
3. Secretary
 FCI Retired Officer & Employees Welfare Association
 U.P. Lucknow-226001

..... Opposite Parties

AWARD

By Letter No. L-22011/5/2019-IR(CM-II) dated 13.05.2019 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Dispute Act, 1947 (14 of 1947) by the Central Government, with following schedule:-

“क्या प्रबन्धन, भारतीय खाद्य निगम, लखनऊ व अन्य द्वारा श्री अब्दुल खालिक पुत्र स्व० हसन मेंहदी रिटायर्ड को सरदार पद से लोडर पद पर रिवर्सन करना व दिनांक 11.09.2001 से 29.05.2003 की अवधि को नियमित न किया जाना न्यायोचित एवं वैध है? यदि नहीं, तो वादी किस राहत को पाने का पात्र हैं?”

Accordingly Industrial Dispute No. 25/2019 registered before this Tribunal.

On 13.01.2020 claimant filed written statement praying therein the following relief:-

यह कि श्रीमान श्रमायुक्त महोदय से निवेदन है कि प्रार्थी के अनुपस्थित अवधि दिनांक 11.09.2001 से दिनांक 28.05.2003 को रेगुलराइज्ड करने हेतु विपक्षीगण को आदेश जारी करने की कृपा करें।

यह कि विपक्षी (भारतीय खाद्य निगम) को निर्देशित करने की कृपा करें कि वे प्रार्थी को बगैर अवसर प्रदान किये हुये एकतरफा निर्णय लेकर सरदार पद से सीधे लोडर पद पर रिवर्ट किया है, उसे निरस्त करें तथा नियमानुसार सरदार पद का लाभ प्रदान करें।

On 23.12.2020 respondent filed their written statement inter-alia taking the main plea as under:-

That the contents of para no. 2 and 3 of the Application are totally incorrect, wrong, misrepresented, hence vehemently denied and deserves to be rejected out-rightly. Moreover, it is respectfully submitted here that the Applicant was engaged in the corporation as “MANDAL” on 28.05.1984 and remained in service till 10.09.2001 on the post of “SARDAR”. It is pertinent to mention here that applicant without any information/intimation remains absent from the services w.e.f. 11.09.2001 to 29.05.2003, as such his services came to an end as per Clause 14 of

Standing Order of IE Act 1946 applicable to Departmental labour and thereafter on the request of the Applicant SRM/GM taking the lenient view, fresh appointment was given to him on the initial post of "LOADER".

*That the contents of para no. 6 to 14 of the Statement of Claims stated are misconceived, misrepresented wrong and false, hence denied. It is further submitted that Applicant after the expiry of the lien period (1984-2001) never applied before the SRM/G.M. Regional Office, Lucknow for the Regularization of his services in the Corporation and remained totally absent w.e.f. 11.09.2001 to 29.05.2003, without any information/intimation to the Concerned Authority in the proper manner. So, obviously after a break in service from- 11.09.2002 to 29.05.2003 again on the request of the Applicant SRM/GM Regional Office, Lucknow taking the lenient view, fresh appointment was given to him on the initial post of "Loader" only due to his own follies and lapses and no incontinence or discomfort was ever ensued on the part of Opp. Parties. Further, it is clarified that as per our Standing Order for the industrial establishment of FCI-If the workman remains absent for 15 days beyond the period of leave originally granted or subsequently extended he shall be given 15 days Notice (by registered Post with acknowledgement dues at his leave address) to explain the cause of his absence. In, case, his explanation is received to satisfaction of the leave sanctioning Authority or office specified in this behalf by the employer, he will not lose his line on his job. In case no explanation is received or if received, it is not considered satisfactory and the workman returns to the duty he will be given a fresh appointment. He shall be entitled to make a representation to the SRM/G.M. Regional Office, Lucknow regarding regularization of the service and the absence for continuity of service with all consequential benefits, who shall decide the issue on the basis of Natural Justice. The decisions of the SRM/General Manager shall be final. **True Copy of the Certified Standing Order For the Industrial establishment of the Food Corporation of India has been Annexed herewith as Annexure No.-1.***

So, now it is beyond reasonable doubt that the applicant was given a fresh appointment on 30.05.2003 to the initial post of "LOADER" after a break in service w.e.f. 11.09.2001 to 29.05.2003, without any information/intimation to the Concerned Authority in the proper manner and the explanation tendered by the Applicant was not at all up to the mark and to the entire satisfaction of the concerned leave sanctioning Authority. So, to put the entire blame on the shoulder of the management is quite unreasonable and untenable in the Eyes of Law.

On 23.12.2020 time was granted to file rejoinder affidavit thereafter on various day time was granted to the workman to file rejoinder affidavit

On 06.03.2023 an order passed which is quoted herein below:-

"Matter taken up in the revised list.

Parties absent.

In spite of last opportunity rejoinder is not filed, accordingly opportunity to file rejoinder is closed.

List on 29.05.2023 for ex-parte hearing. Office to issue notice".

On perusal on record the position is emerge out that in pursuance to the order dated 06.03.2023 a notice was issued to the claimant.

On 18.05.2023 when the matter taken up in the revise cause list neither the workman nor any legal representative as appeared on this behalf Sri P.K. Sinha learned counsel for appellant for the F.C.I. argued that in spite of several opportunities, no claim has been filed by claimant till date as such, keeping in view of the order dated 17.01.2023 the matter be dismissed.

Finding & conclusion:-

Taking into consideration the fact that till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 03.09.2020.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of V.K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194 as under:-

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief".

In the case of M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 208 (118) FLR 1164 Hon'ble Allahabad High Court has held as under:-

"The law has been settled by the Apex Court in case of Shankar Chakravarti V. Britannia Biscuit Co. Ltd. V.K. Raj Industries V. Labour Court and Ors., Airtech Private Limited Vs. State of U.P. and Ors, 1984 (49)

FLR 38 and Meritech India Ltd. V. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led”.

And by the Hon’ble Allahabad High Court in the case of District Administrative Committee, U.P. P.A.C.C.S.C. Services Vs. Secretary-cum G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519; wherein it has been held as under:-

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed”.

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and, and the workman is not entitled for any relief.

Award as above.

Lucknow

JUSTICE ANIL KUMAR, Presiding Officer

05.06.2023

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1516.—औद्योगिक विवाद अधिनियम, 1947, 1947 का 14-वें की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण -सह- श्रम न्यायालय, बिलासपुर (छ.ग.) के पंचाट (संदर्भ संख्या 02/आई.डी.एक्ट/रेफरी/केंद्री/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/45/2018-आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (ID No. 02 /I.D.Act./ Ref / Central /2018) of **the Central Government Industrial Tribunal-cum-Labour Court, BILASHPUR (C.G)** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/45/2018-IR (CM-II)]

MANIKANDAN N., Dy. Director

अनुलग्नक

न्यायालय-श्रम न्यायाधीश, औद्योगिक विवाद अधिनियम श्रम न्यायालय, बिलासपुर (छ.ग.)

(पीठासीन-अविनाश के. त्रिपाठी)

प्रक.क्र.-02/आई.डी.एक्ट/रेफ/सेंट्रल/2018

संस्थित दिनांक- 01.11.2018

गेंदराम पिता चिंताराम

मार्फत- डी.पी. शराफ, ज्वाइंट जनरल सेक्रेटरी,

राष्ट्रीय कॉलरी मजदूर कांग्रेस, पं.क्र.-3519

पता क्वा.नं.ई-22, 15 ब्लॉक, कॉलोनी, कोरबा (छ.ग.)

495677

.....प्रथम पक्ष**// बनाम //****एस.ई.सी.एल.**

मार्फत-सब एरिया मैनेजर, रजगामार सब एरिया

कोरबा एरिया, पोस्ट-रजगामार कॉलरी रजगामार,

जिला कोरबा (छ.ग.) 495683

.....द्वितीय पक्षगण**प्रथम पक्ष द्वारा: श्री डी.पी. शराफ अधिवक्ता****द्वितीय पक्ष द्वारा: श्री विवेक वर्मा अधिवक्ता****// अधिनिर्णय //****(पारित दिनांक-21.08.2023)**

1. इस अधिनिर्णय के द्वारा प्रथम पक्षकार **गेंदराम पिता चिंताराम** और द्वितीय पक्षकार **एस.ई.सी.एल.** के बीच औद्योगिक विवाद विद्यमान होने के कारण, सेक्शन आफिसर, गवर्नमेंट आफ इण्डिया/भारत सरकार, मिनिस्ट्री आफ लेबर/श्रम मंत्रालय नई दिल्ली ने आदेश नं. एल-22012/45/2018-IR(CM-II) नई दिल्ली दिनांक 25.10.2018 के द्वारा विवाद को, औद्योगिक विवाद अधिनियम 1947 (14/1947) के अंतर्गत, श्रम न्यायालय बिलासपुर को अधिनिर्णयार्थ सौंपा है, जिसका निराकरण किया जा रहा है।
2. प्रथम पक्ष की ओर से पेश स्टेटमेंट आफ क्लेम का संक्षिप्त विवरण यह है कि उसे बतौर जनरल मजदूर द्वितीय पक्षकार के द्वारा आदेश क्रमांक 8289 दिनांक 31.03.1990 को नियुक्ति प्रदान की गई थी। उक्त नियुक्ति उसके पिता स्व. चिंताराम पिता चमरू के मेडिकल अनफिट होने के कारण, चिंताराम की अनुसंशा तथा कम्पनी के प्रावधान के अनुसार दिया गया था। स्व. चिंताराम पिता चमरू, एस.ई.सी.एल. में नौकरी कर रहा था तथा स्वास्थ्यगत कारण से मेडिकल बोर्ड की अनुसंशा दिनांक 15.11.1989 के आधार पर द्वितीय पक्षकार के द्वारा आदेश दिनांक 10.12.1989 को चिंताराम को मेडिकल अनफिट किया गया। स्व. चिंताराम के द्वारा मेडिकल अनफिट होने के कारण एन.सी.डब्ल्यू.ए.-III के अंतर्गत अपने आश्रित पुत्र प्रथम पक्षकार गेंदराम का नाम प्रस्तावित कर प्रथम पक्षकार के फोटो को चस्पित कर आवेदन पत्र प्रस्तुत किया गया तथा उक्त आवेदन को प्रथम पक्षकार के सक्षम प्राधिकारी सब एरिया मैनेजर रजगामार तथा वरिष्ठ कार्मिक प्रबंधक के द्वारा स्व. चिंताराम एवं प्रथम पक्षकार गेंदराम की उपस्थिति में कौंसलिंग/जांच की गई एवं पूछताछ करने के बाद प्रमाणित किया गया था। चिंताराम के द्वारा अपने आवेदन के समर्थन में कार्यपालिक दण्डाधिकारी के समक्ष दिनांक 12.01.1990 को शपथ पत्र निष्पादन किया गया, जिसमें चिंताराम ने अपने पुत्र गेंदराम प्रथम पक्षकार का नाम प्रस्तावित किया था। उक्त आवेदनों के जांच उपरान्त द्वितीय पक्षकार के सक्षम अधिकारी सब एरिया मैनेजर रजगामार के द्वारा अनुसंशा के साथ अपने पत्र क्रमांक 6827-28 दिनांक 17.02.1990 के द्वारा प्रथम पक्षकार की नियुक्ति हेतु प्रेषित की गई। प्रथम पक्षकार 1990 से लगातार द्वितीय पक्षकार के यहां कार्यरत रहा। प्रथम पक्षकार के पिता चिंताराम की मृत्यु 24.10.2005 को हो गया था। इस प्रकार प्रथम पक्षकार के साथ उसके पिता 15 वर्ष तक रहे।
3. प्रथम पक्ष ने आगे यह भी अभिवचन किया है कि उसके मोहल्ले में रहने वाले राजकुमार चौहान से व्यक्तिगत दुश्मनी होने के कारण एक झूठा शिकायत राजकुमार के द्वारा 24.11.2015 को अपने नाम से तथा दिनांक 27.11.2015 को गेंदराम के नाम से किया था। उक्त शिकायत के आधार पर द्वितीय पक्षकार के द्वारा पत्र क्रमांक 1405 दिनांक

26.11.2015 का आरोप पत्र जारी किया गया। उक्त आरोप पत्र के आधार पर द्वितीय पक्षकार की ओर से जांच अधिकारी श्री ए.के. वर्मा कॉलरी मैनेजर के द्वारा दिनांक 23.12.2015 को प्रथम जांच कार्यवाही की गई। जांच अधिकारी ने अपने जांच रिपोर्ट में, आरोप पत्र में उल्लेखित स्टैंडिंग आर्डर की धारा 26.1 एवं 26.9 का दोष सिद्ध होना पाना उल्लेखित किया। जांच रिपोर्ट दिनांक 25.01.2017 को द्वितीय पक्षकार के समक्ष प्रस्तुत किया गया, जिसे स्वीकार करते हुए दिनांक 27.01.2017 को प्रथम पक्षकार को सेवा से बर्खास्त करने की अनुसंधान करते हुए क्षेत्रीय कार्मिक प्रबंधक कोरबा एरिया को प्रेषित किया गया। दिनांक 27.01.2017 को प्रथम पक्षकार की सेवा समाप्ति की अनुसंधान के पश्चात द्वितीय पक्ष के जांच अधिकारी के द्वारा दिनांक 01.02.2017 को कारण बताओं नोटिस जारी किया गया, जबकि सेवा समाप्ति की अनुसंधान पूर्व में ही की जा चुकी थी। उक्त नोटिस का जवाब प्रथम पक्ष के द्वारा दिनांक 03.02.2017 को दे दिया गया। उसके बाद फ्रेबिकेट करते हुए पुनः अनुसंधान पत्र दिनांक 06.02.2017 को द्वितीय पक्षकार द्वारा प्रेषित किया गया। दिनांक 27.01.2017 एवं 06.02.2017 के अनुसंधान के आधार पर क्षेत्रीय कार्मिक प्रबंधक ने नोटशीट दिनांक 07.02.2017 के द्वारा सेवा बर्खास्तगी अनुसंधान को स्वीकृति प्रदान की गई। गेंदराम के नाम पर तथाकथित गेंदराम के द्वारा शिकायत की गई थी, किन्तु जांच में जांच अधिकारी के समक्ष तथाकथित गेंदराम कभी भी उपस्थित नहीं हुआ। जांच कार्यवाही में प्रथम पक्षकार को अपना पक्ष रखने का अवसर नहीं दिया गया, जो प्राकृतिक न्याय सिद्धान्त के विपरीत है। अतः प्रथम पक्ष का बर्खास्तगी आदेश दिनांक 07.02.2017 को अवैध एवं शून्य घोषित कर प्रथम पक्षकार को 07.02.2017 से पुनः सेवा में बहाल कर लगातार सेवा मानते हुए पूर्ण वेतन दिलाये जाने का निवेदन किया गया।

4. द्वितीय पक्ष की ओर से स्टेटमेंट आफ क्लेम का विरोध करते हुए अपने जवाब दावा में यह अभिवचन किया गया कि प्रथम पक्ष द्वारा प्रस्तुत स्टेटमेंट आफ क्लेम चलने योग्य नहीं है। प्रथम पक्षकार को दिनांक 07.02.2017 को जांच अधिकारी ने जांच कार्यवाही को कुल 37 बैठकों में पूर्ण की। जांच अधिकारी द्वारा जांच को पूर्ण कर फाईल के साथ जांच प्रतिवेदन प्रस्तुत किया गया जिसमें प्रथम पक्ष पर लगाये गये आरोप पूर्णतः सिद्ध पाये गये, तदोपरान्त प्रथम पक्ष को कारण बताओं नोटिस जारी किया गया। प्रथम पक्ष का स्पष्टीकरण दिनांक 03.02.2017 को प्राप्त हुआ, जिसे असंतोषजनक एवं तथ्यहीन पाया गया। प्रकरण के सूक्ष्म अध्ययन के पश्चात कदाचरण की गंभीरता को देखते हुए सक्षम अधिकारी द्वारा प्रमाणित स्थायी आदेश की धारा 27.1(h) के अंतर्गत दिये गये दण्ड के प्रावधानों के अनुसार प्रथम पक्ष को कम्पनी की सेवा से बर्खास्त किये जाने का दण्ड अनुमोदित किया गया। प्रथम पक्षकार के द्वारा बर्खास्तगी आदेश के पश्चात नियंत्रक अधिकारी के समक्ष ग्रेच्युटी राशि के भुगतान हेतु आवेदन प्रस्तुत किया गया, जो सेवानिवृत्ति के पश्चात ही दिया जाता है। नियंत्रक अधिकारी के द्वारा प्रथम पक्षकार के पक्ष में दिनांक 06.04.2018 को ग्रेच्युटी राशि 7,38,659/- देने का आदेश पारित हुआ था, उसके पश्चात उक्त आदेश के विरुद्ध अपीलीय अधिकारी के समक्ष धारा 7(7) के तहत अपील प्रस्तुत की गई, जिसमें दिनांक 13.05.2019 के आदेश द्वारा नियंत्रक अधिकारी के आदेश को यथावत रखा गया। प्रथम पक्षकार एक तरफ बर्खास्तगी के आदेश के विरुद्ध न्यायालय के समक्ष औद्योगिक विवाद के तहत आवेदन प्रस्तुत किया तथा दूसरी तरफ उपादान की राशि के लिए आवेदन प्रस्तुत किया, जिसके अनुसार वह स्वयं उपादान लेने के पश्चात वापस नौकरी में आने का अधिकारी नहीं है तथा वह स्वयं अपने बर्खास्तगी को पूर्णतः स्वीकार कर चुका है। प्रथम पक्ष के विरुद्ध शिकायत प्राप्त हुआ कि वह फर्जी तरीके से नौकरी प्राप्त किया है, जो वास्तव में चिन्ताराम का पुत्र नहीं है, जिसके लिए उसे विधिवत आरोप पत्र दिया जाकर जांच कार्यवाही पूर्ण की गई। जांच कार्यवाही में लगाये गये आरोप सिद्ध पाया गया और प्रथम पक्ष के कृत्य की गंभीरता को देखते हुए पत्रांक 0619 दिनांक 07.02.2017 द्वारा सेवा से डिसमिस किया जा चुका है। अतः प्रथम पक्षकार का स्टेटमेंट आफ क्लेम निरस्त किये जाने का निवेदन किया।
5. उभय पक्ष के अभिवचनों के आधार पर, प्रकरण के समुचित निराकरण हेतु पूर्व पीठासीन अधिकारी द्वारा पृथक से निम्नलिखित वाद प्रश्नों की विरचना की गई, जिसका निराकरण न्यायालय द्वारा सकारण निष्कर्ष देते हुए निम्नांकित रूप से किया जा रहा है।

क्र.	वाद प्रश्न	निष्कर्ष
1.	क्या प्रथम पक्ष का बर्खास्तगी आदेश दिनांक 07.02.2017 अवैध एवं शून्य घोषित किये जाने योग्य है ?	"हाँ"
2	क्या प्रथम पक्ष सम्पूर्ण पिछला हितलाभ सहित पूर्व पद पर पुनः स्थापित होने की पात्रता रखता है ?	"अंशत प्रमाणित" प्रथम पक्ष एक चौथाई वेतन प्राप्त करने का अधिकारी है

3	क्या प्रथम पक्ष के जांच कार्यवाही में प्राकृतिक न्याय के सिद्धान्त का पालन किया गया है ?	"नहीं"
4	सहायता एवं व्यय ?	"अधिनिर्णय की कंडिका-30 के अनुसार"

6. प्रथम पक्ष ने अपने समर्थन में स्वयं प्रथम पक्ष गेंदराम तथा द्वितीय पक्ष की ओर से श्रीमती अमीता चौहान का साक्ष्य न्यायालय के समक्ष प्रस्तुत किया गया है। इसी तरह प्रथम पक्ष ने अपने समर्थन में प्रदर्श पी-1 से लेकर प्रदर्श पी-52 तक के दस्तावेज प्रस्तुत किया गया है। द्वितीय पक्ष की ओर से अपने समर्थन में प्रदर्श डी-1 से प्रदर्श पी-50 तक के दस्तावेज प्रस्तुत किया गया है।

वाद प्रश्न क्रमांक-1 का निष्कर्ष

7. उक्त वाद प्रश्न के संबंध में प्रथम पक्ष गेंदराम (प्र.प.सा.क्र.-1) ने अपने शपथ पत्रीय साक्ष्य में कथन किया है कि उसे जनरल मजदूर के रूप में द्वितीय पक्ष के आदेश क्र 8289 दिनांक 31.03.1990 के द्वारा नियुक्ति प्रदान की गई थी, तब से सेवा समाप्ति दिनांक 07.02.2017 तक लगातार कार्य किया है। उसकी नियुक्ति उसके पिता स्वर्गीय चिन्ताराम के मेडिकल अनफिट होने के कारण चिन्ताराम के अनुसंशा एवं कम्पनी के प्रावधानों के अनुसार किया गया है। उसके पिता स्व. चिन्ताराम एस.ई.सी.एल. में नौकरी कर रहे थे, मेडिकल बोर्ड की अनुसंशा दिनांक 15.11.1989 के आधार पर दिनांक 10.12.1989 को चिन्ताराम को मेडिकल अनफिट किया गया था। उसके पिता द्वारा एन.सी.डब्ल्यू.ए-iii के अंतर्गत अपने आश्रित पुत्र अर्थात् उसका नाम फोटो लगाकर प्रस्तावित कर आवेदन प्रस्तुत किया था। उक्त आवेदन पत्र के समर्थन में कार्यपालक दंडाधिकारी के समक्ष दिनांक 12.01.1990 को शपथ पत्र निष्पादित किया गया, जिसमें उसके पिता ने उसका नाम प्रस्तावित किया था। उसके पिता की अनुसंशा के आधार पर सब एरिया मैनेजर राजगामार ने अनुसंशा सहित पत्र क्रमांक 6827-28 दिनांक 17.02.1990 के द्वारा उसे नियुक्ति दी गई थी।
8. प्रथम पक्ष ने आगे यह भी अभिवचन किया है कि उसके विरुद्ध मोहल्ले में रहने वाले राजकुमार चौहान द्वारा झूठी शिकायत की गई थी, जिसके आधार पर आरोप पत्र जारी किया गया है। उसके विरुद्ध स्तरीय स्थायी आदेश धारा 26.1 एवं 23.9 को प्रमाणित मानकर धारा 27.1(h) के द्वारा सेवा समाप्ति का आदेश दिया गया है। प्रथम पक्ष ने अपने समर्थन में अपने नियुक्ति पत्र को प्रदर्श पी-1, आफिस आर्डर को प्रदर्श पी-2, प्रपोजल आवेदन को प्रदर्श पी-3 एवं पी-4, चिन्ताराम दिये गये शपथ पत्र को प्रदर्श पी-5, चिन्ताराम के सेवा अभिलेख को प्रदर्श पी-6, चिन्ताराम द्वारा भरे गये आप्शन फार्म को प्रदर्श पी-7, सब एरिया मैनेजर के पत्र को प्रदर्श पी-8, राजकुमार चौहान के द्वारा किये गये शिकायत को प्रदर्श पी-9, गेंदराम द्वारा किये गये शिकायत को प्रदर्श पी-10, आरोप पत्र को प्रदर्श पी-11, जांच कार्यवाही के दस्तावेज को प्रदर्श पी-12, जांच प्रतिवेदन को प्रदर्श पी-13, विभागीय जांच की 27वीं बैठक में आरोपी पक्ष द्वारा पेश एनेक्जर-1 से 37 को प्रदर्श पी-14, विभागीय जांच की 28वीं बैठक को प्रदर्श पी-15, मेडिकल सर्टिफिकेट को प्रदर्श पी-16, सूचना के अधिकार के तहत प्राप्त दस्तावेज को प्रदर्श पी-17, विभागीय नोटशीट को प्रदर्श पी-18, विभागीय जांच की कार्यवाही रिपोर्ट को प्रदर्श पी-19, सेवा बर्खास्तगी आदेश को प्रदर्श पी-20, चिन्ताराम, बहर्तीन एवं रीना कुमारी के द्वारा गेंदराम के विरुद्ध भरण पोषण हेतु प्रस्तुत आवेदन पत्र को प्रदर्श पी-21, गेंदराम को दिये गये नोटिस को प्रदर्श पी-22, न्यायिक दण्डाधिकारी प्रथम श्रेणी कोरबा के आर्डरशीट को प्रदर्श पी-23, चिन्ताराम के बयान को प्रदर्श पी-24, बहर्तीन बाई का धारा 125 दं.प्र.सं. के तहत दिये गये बयान को प्रदर्श पी-25, न्यायालय न्यायिक दण्डाधिकारी प्रथम श्रेणी कोरबा द्वारा जारी भरण पोषण के आदेश को प्रदर्श पी-26, चिन्ताराम एवं बहर्तीन बाई के द्वारा दिये गये वकालतनामा को प्रदर्श पी-27, गेंदराम की ओर से प्रस्तुत आवेदन को प्रदर्श पी-28, शशिधर द्विवेदी उप क्षेत्रीय प्रबंधक के बयान को प्रदर्श पी-29, संजय कुमार शिंदे एस.ई.सी.एल अधिकारी के बयान को प्रदर्श पी-30, अजय जोशी उप क्षेत्रीय प्रबंधक के बयान को प्रदर्श पी-31, उपक्षेत्रीय प्रबंधक रजगामार द्वारा गेंदराम के नियुक्ति के संबंध में दस्तावेज चौकी प्रभारी रजगामार को दी गई जानकारी प्रदर्श पी-32, राजकुमार चौहान द्वारा किये गये शिकायत को प्रदर्श पी-33, अंतिम प्रतिवेदन को प्रदर्श पी-34, प्रथम सूचना प्रतिवेदन को प्रदर्श पी-35, गेंदराम के पेन कार्ड को प्रदर्श पी-36, ड्रायविंग लायसेंस को प्रदर्श पी-37, मतदाता परिचय पत्र को प्रदर्श पी-38, आधार कार्ड को प्रदर्श पी-39 के रूप में पेश किया है।

9. एस.ई.सी.एल. द्वारा जारी आई कार्ड को प्रदर्श पी-40, 10वीं परीक्षा में सम्मिलित होने हेतु दिये गये आवेदन को प्रदर्श पी-41, छ.ग. राज्य ओपन स्कूल के प्रमाण पत्र को प्रदर्श पी-42, स्थायी सामाजिक जाति प्रमाण पत्र को प्रदर्श पी-43, बहतरतीन बाई के निर्वाचन पत्र को प्रदर्श पी-44, बहतरतीन बाई के आधार कार्ड को प्रदर्श पी-45, बहतरतीन बाई के मृत्यु प्रमाण पत्र को प्रदर्श पी-46, बहतरतीन बाई के शोक पत्र को प्रदर्श पी-47, बहतरतीन बाई के शपथ पत्र को प्रदर्श पी-48, गंगाराम चौहान के शपथ पत्र को प्रदर्श पी-49, नोटरी द्वारा जारी रसीद को प्रदर्श पी-50, आपराधिक प्रकरण क्रमांक 436/2015 के आदेश एवं अन्य प्रपत्र को प्रदर्श पी-51, दाण्डिक अपील क्रमांक 3/20 निर्णय दिनांक 22.01.2021 की प्रमाणित प्रतिलिपि को प्रदर्श पी-52 के रूप में पेश किया गया है।
10. प्रतिपरीक्षण में गेंदराम (प्रथम पक्ष) ने यह कथन किया है कि उसका पूरा नाम गेंदराम आ. स्व. चिन्ताराम है। जांच के दौरान मुझे प्रतिनिधि रखने का मौका एस.ई.सी.एल. के द्वारा दिया गया था। दिनांक 11.07.2016 को उसके द्वारा सहकर्मि बदलने के लिए निवेदन किया गया था, जिसे जांच अधिकारी के द्वारा स्वीकार किया गया। सेवा समाप्ति की सूचना देने से पहले उसकी सेवा समाप्ति की अनुसंशा कर दी गई।
11. द्वितीय पक्ष की ओर से उपस्थित साक्षी अमीता चौहान (द्वि.प.सा.क्र.-1) ने अपने शपथ पत्रीय बयान में यह कथन की है कि आदेश दिनांक 07.02.2017 के विरुद्ध कम्पनी के द्वारा प्रथम पक्ष को आरोप पत्र दिनांक 26.11.2015 जारी किया गया था, जिसका प्रथम पक्ष द्वारा स्पष्टीकरण दिनांक 30.11.2015 को दिया गया, जो संतोषप्रद नहीं पाये जाने से विभागीय जांच हेतु दिनांक 03.12.2015 को आदेश जारी किया गया। प्रकरण के समस्त दस्तावेज एवं जांच कार्यवाही के अध्ययन के पश्चात कदाचरण की गंभीरता को देखते हुए सक्षम अधिकारी द्वारा प्रमाणित स्थायी आदेश की धारा एवं दिये गये दण्ड प्रावधानों के अनुसार प्रथम पक्ष को कम्पनी की सेवा से बर्खास्त किये जाने का दण्ड अनुमोदित किया गया है। जांच अधिकारी के द्वारा जांच कार्यवाही को पूर्ण कर जांच प्रतिवेदन प्रस्तुत किया गया, जिसमें प्रथम पक्ष के उपर लगाये गये आरोप पूर्णतः सिद्ध पाये गये तदुपरान्त प्रथम पक्ष को कारण बताओं नोटिस दिया गया, जिसका जवाब प्रथम पक्ष के द्वारा दिया गया। समस्त प्रकरण के अध्ययन के पश्चात कदाचरण की गंभीरता को देखते हुए सक्षम अधिकारी के द्वारा प्रमाणित स्थायी आदेश की धारा 27.1(h) के अंतर्गत सेवा से बर्खास्त करना दिये गये प्रावधानों के अनुसार कम्पनी की सेवा से बर्खास्त किये जाने का दण्ड अनुमोदित किया गया है।
12. द्वितीय पक्ष की ओर से अपने पक्ष समर्थन में उप क्षेत्रीय प्रबंधक रजगामार उपक्षेत्र द्वारा गेंदराम आ. चिन्ताराम को दिया गया आरोप पत्र प्रदर्श डी-1, शिकायतकर्ता द्वारा शिकायत के संबंध में दी गई दस्तावेज प्रदर्श डी-2, गेंदराम के द्वारा उप क्षेत्रीय प्रबंधक को दस्तावेजों की प्रति उपलब्ध कराये जाने बाबत दिया गया आवेदन प्रदर्श डी-3, विभागीय जांच आदेश प्रदर्श डी-4, गेंदराम के द्वारा जांच अधिकारी को सहकर्मि रखने हेतु दिया गया आवेदन प्रदर्श डी-5, विभागीय जांच कार्यवाही एवं साक्षियों के कथन प्रदर्श डी-6 से लेकर प्रदर्श डी-42, अंतिम सूचना प्रदर्श डी-43, एवं प्रदर्श डी-44, जांच प्रतिवेदन प्रदर्श डी-45, फर्जी नियुक्ति प्रकरण की विस्तृत जानकारी प्रदर्श डी-46, कम्पनी के प्रमाणित स्थायी आदेश के उल्लंघन के लिए दिया गया नोटिस प्रदर्श डी-47, गेंदराम का दिया गया कारण बताओं नोटिस प्रदर्श डी-48, गेंदराम के द्वारा कारण बताओं नोटिस का दिया गया जवाब प्रदर्श डी-49, एवं सेवा से बर्खास्तगी आदेश प्रदर्श डी-50 पेश किया गया है।
13. प्रतिपरीक्षण में इस द्वितीय पक्ष साक्षी अमीता चौहान ने यह स्वीकार की है कि वह गेंदराम के विरुद्ध की गई किसी भी कार्यवाही में शामिल नहीं हुई है। इस साक्षी ने यह भी स्वीकार की है कि उसने प्रथम पक्ष गेंदराम का सर्विस रिकार्ड भी देखी है, गेंदराम की नियुक्ति उसके पिताजी के मेडिकल अनफीट के कारण उनके स्थान पर हुई थी। साक्षी ने यह भी स्वीकार की है कि किसी कर्मचारी का मेडिकल अनफीट होने पर उस कर्मचारी के कहने के आधार पर और उसके आवेदन अथवा शपथ पत्र के आधार पर उसकी नियुक्ति विभाग में की जाती है। यह भी स्वीकार की है कि नियुक्ति के पूर्व विभाग द्वारा सभी दस्तावेजों की जांच की जाती है, उसके उपरान्त ही नियुक्ति प्रदान की जाती है। प्रदर्श पी-2 के द्वारा चिन्ताराम को मेडिकल अनफीट किया गया था, प्रदर्श पी-3 का निष्पादन गेंदराम के पिता चिन्ताराम द्वारा किया गया था तथा इसकी जांच कम्पनी के अधिकारियों द्वारा किये जाने के पश्चात उसकी अनुसंशा की गई थी। प्रदर्श पी-5 चिन्ताराम द्वारा निष्पादित शपथ पत्र है, जिसमें उन्होंने अपने स्थान पर आवेदन के साथ प्रदर्श पी-4 में उल्लेखित गेंदराम के फोटो सहित उसे नियुक्ति दिये जाने हेतु आवेदन पत्र के समर्थन में शपथ पत्र कम्पनी में दिया गया था। प्रदर्श पी-6 जो चिन्ताराम का सर्विस बुक है, उसमें चिन्ताराम की पत्नि बहतरतीन बाई, पुत्र गेंदराम, पुत्री मीना बाई, पिता चमरू एवं माता का नाम सुंदर बाई दर्ज है। प्रदर्श पी-7 के आधार पर चिन्ताराम ने कम्पनी द्वारा दिये जाने वाले एल.टी.सी. का लाभ स्वयं पत्नि बहतरतीन बाई, पुत्र गेंदराम, पुत्री मीना बाई के नाम से

लेता रहा है। प्रदर्श पी-8 के द्वारा चिन्ताराम द्वारा दिये गये समस्त दस्तावेज और सर्विस रिकार्ड की जांच करने के पश्चात उसकी सब-काँपी भेजकर गेंदराम की नियुक्ति के लिए अनुसंधान किया गया था।

14. द्वितीय पक्ष के साक्षी अमीता चौहान ने अपने प्रतिपरीक्षण की कंडिका-30 में यह स्वीकार की है कि गेंदराम ने ऐसा कोई दस्तावेज नहीं दिया, जिससे यह दर्शित हो सके कि वह फर्जी व्यक्ति है। इस साक्षी ने यह भी स्वीकार की है कि आन लाइन निकाले जाने के बाद भी गेंदराम का वोटर आई.डी. कार्ड प्रकरण में पेश नहीं की गई है। प्रतिपरीक्षण की कंडिका-33 में इस साक्षी ने यह भी स्वीकार किया है कि जांच कमेटी गठन के आदेश का कोई दस्तावेज उसके द्वारा पेश नहीं किया गया है। यह भी स्वीकार की कि ऐसा कोई दस्तावेज पेश नहीं है, जिसमें गेंदराम को आरोप पत्र दिनांक 11.09.2015 जारी किया गया था, जिसके आधार पर गेंदराम को सेवा से बर्खास्त किया गया है। प्रतिपरीक्षण की कंडिका-37 में यह स्वीकार की है कि कम्पनी में उपलब्ध दस्तावेजों में कहीं भी सुमति बाई, चिन्ताराम की पत्नी है, ऐसा उल्लेख नहीं है। प्रदर्श डी-45 में ऐसा उल्लेख नहीं है कि गेंदराम द्वारा नियोक्ता के व्यापार एवं सम्पत्ति के साथ चोरी, धोखाधड़ी या बेईमानी की गई है साथ ही ऐसा कोई दस्तावेज पेश नहीं है, जिसमें गेंदराम द्वारा अपने रोजगार के संबंध में नाम, उम्र एवं पिता के नाम का गलत सूचना दिया हो। प्रबंधन द्वारा सुमति बाई चिन्ताराम की पत्नी है, ऐसा कोई दस्तावेज न्यायालय में पेश नहीं किया गया है। प्रदर्श डी-21 में शिकायतकर्ता राजकुमार ने कोई भी दस्तावेज गेंदराम के विरुद्ध पेश नहीं किया था। बर्खास्त करने वाले सब एरिया मैनेजर शशिधर द्विवेदी के द्वारा कोरबा न्यायालय के समक्ष आपराधिक प्रकरण क्रमांक 2520/2016 शासन विरुद्ध कौशल के कंडिका-4 में कथन किया है कि एसईसीएल में किसी भी व्यक्ति के मेडिकल अनफीट होने पर उसके द्वारा प्रस्तुत दस्तावेजों को सही पाये जाने पर उसके स्थान पर उसके पुत्र को नौकरी प्रदान की जाती है, यह कथन प्रदर्श पी-29 में उल्लेखित है। द्वितीय पक्ष साक्षी ने प्रतिपरीक्षण में यह स्वीकार की है कि गेंदराम को सेवा से बर्खास्त दिनांक 26.11.2015 के आधार पर नहीं किया गया है बल्कि चार्जशीट क्रमांक 3352 दिनांक 11.09.2015 के आधार पर किया गया है और उक्त दस्तावेज उनके पास नहीं है और न ही न्यायालय में पेश किया है। द्वितीय पक्ष साक्षी ने अपने प्रतिपरीक्षण की कंडिका-55 में यह भी स्वीकार की है कि राजकुमार द्वारा पेश शिकायत फर्जी है, इसलिए शिकायत की मूल प्रति एवं छायाप्रति पेश नहीं किया है।
15. प्रकरण में प्रस्तुत साक्ष्य एवं दस्तावेजों का गंभीरतापूर्वक अवलोकन किया गया। प्रकरण में प्रस्तुत दस्तावेज प्रदर्श पी-6 चिन्ताराम का सेवा अभिलेख के अवलोकन से दर्शित होता है कि चिन्ताराम ने उक्त सेवा अभिलेख में बहतरिन बाई, गेंदराम, मीना बाई, चमरू एवं सुन्दर बाई का नाम परिवार के सदस्यों के रूप में नामित किया है, जिस पर चिन्ताराम के अंगूठा निशान है। प्रदर्श पी-7 चिन्ताराम द्वारा कम्पनी के समक्ष दिया गया आपशन फार्म जिसमें भी चिन्ताराम ने बहतरिन बाई को अपना पत्नी, गेंदराम को अपना पुत्र एवं मीना बाई को अपना पुत्री होना उल्लेखित किया है, इस पर भी चिन्ताराम के अंगूठा निशान है। इस प्रकार उपरोक्त दस्तावेजों में चिन्ताराम ने अपनी सेवा अभिलेख एवं आपशन फार्म में अपने पुत्र के रूप में गेंदराम का नाम उल्लेखित किया है, जिससे यह दर्शित हो रहा है कि गेंदराम नामक व्यक्ति चिन्ताराम का पुत्र है। इसी प्रकार प्रदर्श पी-15 जो श्रीमती रीना साहू का विभागीय जांच कार्यवाही की 28वीं बैठक दिनांक 28.12.2016 को लिया गया कथन है, जिसमें प्रश्न क्रमांक-2 में रीना बाई ने अपनी माता का नाम सुमति बाई होना बताई है तथा पिताजी का नाम चिन्ताराम बताई है, परन्तु श्रीमती रीना साहू के द्वारा ऐसा कोई भी दस्तावेज पेश नहीं किया है, जिससे यह साबित हो कि सुमति बाई चिन्ताराम की पत्नी है, बल्कि इसके विपरीत प्रदर्श पी-6 एवं प्रदर्श पी-7 में चिन्ताराम ने अपनी सेवा अभिलेख एवं आपशन फार्म में अपनी पत्नी का नाम बहतरिन बाई होना बताया है जिसे एस.ई.सी.एल. कम्पनी द्वारा सील एवं हस्ताक्षर से अभिप्रमाणित भी किया गया है, उक्त दस्तावेजों में कहीं पर भी चिन्ताराम के पत्नी के रूप में सुमति बाई के नाम का उल्लेख नहीं है। रीना बाई ने अपने प्रश्न क्रमांक-6 के उत्तर में गेंदराम को नहीं जानना बताई है, परन्तु प्रश्न क्रमांक-11 के उत्तर में चिन्ताराम को ही अपना पिता बताई है। इस प्रकार श्रीमती रीना बाई के विभागीय कथन में भी चिन्ताराम की पत्नी के रूप में बहतरिन बाई का नाम उल्लेखित है न कि सुमति बाई का। ऐसी स्थिति में श्रीमती रीना बाई द्वारा विभागीय कार्यवाही में पेश किये गये कथन एवं प्रकरण में प्रस्तुत दस्तावेजों से यह कहीं भी प्रमाणित नहीं होता है कि चिन्ताराम की पत्नी का नाम सुमति बाई है जबकि यह प्रमाणित हो रहा है कि चिन्ताराम की पत्नी का नाम बहतरिन बाई है और उनके सेवा अभिलेख में गेंदराम का नाम उल्लेखित है। प्रकरण में प्रस्तुत दस्तावेज प्रदर्श पी-42 जो गेंदराम का छ.ग. राज्य ओपन स्कूल रायपुर का हाईस्कूल सर्टिफिकेट परीक्षा मई 2014 है, इसमें भी उनके पिता का नाम चिन्ताराम तथा माता का नाम बहतरिन बाई उल्लेखित है। प्रदर्श पी-43 स्थायी सामाजिक प्रस्थिति प्रमाण पत्र में भी गेंदराम पिता चिन्ताराम उल्लेखित है। प्रदर्श पी-46 छत्तीसगढ़ शासन, आर्थिक एवं सांख्यिकी संचालनालय द्वारा जारी बहतरिन बाई के मृत्यु प्रमाण पत्र में पति का नाम चिन्ताराम उल्लेखित है। ऐसी स्थिति में यह विशेष

रूप से स्पष्ट होता है कि गेंदराम के द्वारा पेश किये गये सभी दस्तावेजों में उनके पिता का नाम चिन्ताराम तथा माता का नाम बहतरीन बाई उल्लेखित है, जिसका समर्थन द्वितीय पक्ष के साक्षी अमीता चौहान के द्वारा स्वीकार कर किया गया है कि उसने प्रथम पक्ष गेंदराम का सर्विस रिकार्ड भी देखी है, गेंदराम की नियुक्ति उसके पिताजी के मेडिकल अनफीट के कारण उनके स्थान पर हुई थी। प्रदर्श पी-6 जो चिन्ताराम का सर्विस बुक है, उसमें चिन्ताराम की पत्नी बहतरीन बाई, पुत्र गेंदराम, पुत्री मीना बाई, पिता चमरू एवं माता का नाम सुंदर बाई दर्ज है। प्रदर्श पी-7 के आधार पर चिन्ताराम ने कम्पनी द्वारा दिये जाने वाले एल.टी.सी. का लाभ स्वयं पत्नी बहतरीन बाई, पुत्र गेंदराम, पुत्री मीना बाई के नाम से लेता रहा है।

16. इसी प्रकार द्वितीय पक्ष के द्वारा प्रस्तुत दस्तावेज प्रदर्श डी-2 में उप क्षेत्रीय प्रबंधक द्वारा शिकायत के संबंध में दस्तावेज की मांग की गई है परन्तु उक्त दस्तावेज गेंदराम को दिये जाने के संबंध में या दस्तावेज उसे प्राप्त हो जाने के संबंध में पावती अथवा अभिस्वीकृति पेश नहीं किया गया है। स्वयं गेंदराम ने प्रदर्श डी-3 में उप क्षेत्रीय प्रबंधक को दस्तावेजों के अभाव में संदर्भित पत्र का युक्तियुक्त रूप से जवाब प्रस्तुत करना संभव नहीं होना बताते हुए आवेदन पेश किया गया है, इसके उपरान्त द्वितीय पक्ष के द्वारा उक्त दस्तावेज प्रथम पक्ष को प्रदान किये गये हैं, तत्संबंध में भी कोई दस्तावेज या प्रमाण पेश नहीं किये हैं। प्रदर्श डी-21 में शिकायतकर्ता राजकुमार चौहान ने विभागीय जांच की कार्यवाही 16 वीं बैठक दिनांक 21.07.2016 को कथन किया है कि चिन्ताराम चौहान पिता चमरू के छोटे भाई पुनीराम पिता चमरू ने अपने बड़े लडके कौसल कुमार चौहान को गेंदराम पिता चिन्ताराम के नाम से एस.ई.सी.एल. में नौकरी प्रदान कराई थी। पुनीराम पिता चमरू के सर्विस रिकार्ड में कौसल चौहान का नाम दर्ज है। शासकीय पूर्व माध्यमिक शाला रजगामार में कौसल चौहान पिता पुनीराम का नाम दर्ज है। शिकायतकर्ता ने प्रथम पक्ष गेंदराम को पुनीराम का लडका कौसल चौहान होना बताया है। परन्तु इस साक्षी ने गेंदराम को कौसल चौहान होना एवं पुनीराम के लडके होने के संबंध में कोई भी दस्तावेज पेश नहीं किया है। कोई ऐसा भी दस्तावेज पेश नहीं किया है जिसमें कौसल चौहान, पुनीराम का लडका होना दर्शित हो। शिकायतकर्ता ने फर्जी दस्तावेज बनाकर कौसल चौहान को गेंदराम और पुनीराम को चिन्ताराम किया जाना बता रहा है, परन्तु जब चिन्ताराम एस.ई.सी.एल. में विगत कई वर्षों से नौकरी कर रहा है और एस.ई.सी.एल. के अधिकारियों के अधीन नौकरी कर रहा है तो ऐसी स्थिति में पुनीराम फर्जी दस्तावेज तैयार करके अपना नाम चिन्ताराम कैसे मर्ज करवा सकता है साथ ही साथ फर्जी दस्तावेज तैयार कर कौसल कुमार चौहान के स्थान पर प्रथम पक्ष गेंदराम का नाम कैसे जोड़वा सकता है और तो और चिन्ताराम के द्वारा एस.ई.सी.एल. के अधिकारियों के समक्ष दिये गये आपशन फार्म में भी गेंदराम का नाम उल्लेखित कैसे हो सकता है।
17. इस संबंध में मीना बाई के कथन का अवलोकन किया गया। मीना ने अपने जांच कार्यवाही के कथन में बताई है कि वह चिन्ताराम की पुत्री है, उसके पिता जी बीमारी की वजह से नौकरी छोड़ चुका था। उसका भाई गेंदराम (पागल) हो करके घर छोड़ कर भाग गया था। साक्षी का यह कथन की उसका भाई गेंदराम पागल होकर घर छोड़ कर भाग गया था, इस संबंध में इस साक्षी के द्वारा या उनके घर वालों के द्वारा गेंदराम के पागल होने और घर छोड़ कर भाग जाने के संबंध में किसी पुलिस थाना में गेंदराम के लापता होने की रिपोर्ट करवाई गई हो या किसी समाचार पत्र में गुमशुदगी विज्ञप्ति प्रकाशित कराई गई हो, इस संबंध में भी कोई दस्तावेज पेश नहीं किया गया है। प्रश्न -5 के उत्तर में इस साक्षी ने बताया है कि शपथ पत्र में जो हस्ताक्षर हैं वह उसके नहीं हैं, प्रश्न-6 के उत्तर में बताई है कि वह नोटरी के पास नहीं गई है। इस प्रकार साक्षी के द्वारा शपथ पत्र पेश करना, और नोटरी के समक्ष शपथ पत्र में हस्ताक्षर नहीं करना बताया गया है। इस साक्षी ने भी नोटरी के समक्ष गलत शपथ पत्र बनाये जाने के संबंध में भी शिकायत किये जाने का दस्तावेज प्रस्तुत नहीं किया गया है।
18. प्रदर्श डी-30 विभागीय जांच कार्यवाही (दिनांक 06.12.2016) 25वीं बैठक में श्रीमति सुमति बाई द्वारा दिये गये बयान का अवलोकन किया गया, परन्तु सुमति बाई ने चिन्ताराम की पत्नी होने के संबंध में किसी भी प्रकार का दस्तावेज पेश नहीं किया है, जिसमें साक्षी सुमति चिन्ताराम की पत्नी है, दर्शित होता हो। इसके विपरीत चिन्ताराम के सेवा अभिलेख में एवं आपशन फार्म में उनकी पत्नी का नाम बहतरीन बाई अंकित होना स्पष्ट दर्शित है।
19. अब प्रश्न यह उठता है कि शिकायतकर्ता राजकुमार चौहान पिता सावनसाय चौहान के शिकायत प्रदर्श पी-9 के साथ गेंदराम पिता स्व. चिन्ताराम के द्वारा भी एक शिकायत प्रदर्श पी-10 के रूप में पेश किया गया है, परन्तु विभागीय जांच में श्रीमती रीना बाई, मीना बाई एवं सुमति के द्वारा यह कथन कि वास्तविक गेंदराम पिछले कई वर्ष पहले पागल होकर घर छोड़ कर कहीं चला गया है तो फिर शिकायतकर्ता राजकुमार के साथ वास्तविक गेंदराम द्वारा शिकायत किया जाना विश्वसनीय प्रतीत नहीं होता है और यदि वास्तविक गेंदराम द्वारा शिकायत की गई है तो उनका विभागीय कार्यवाही में कथन क्यों दर्ज नहीं कराया गया है। शिकायतकर्ता के द्वारा कौसल चौहान (प्रथम पक्ष

गेंदराम) के पूर्व माध्यम शाला का भी सर्टिफिकेट या परीक्षा प्रमाण पत्र पेश नहीं किया गया है, जिससे यह साबित होता कि कौसल चौहान द्वारा फर्जी दस्तावेज तैयार कर, गेंदराम के नाम से एसईसीएल में नौकरी किया जा रहा है। शिकायतकर्ता के द्वारा कौसल का निर्वाचन आयोग का रिकार्ड प्रस्तुत किया जाना बताया जा रहा है परन्तु उसका दस्तावेज प्रकरण में पेश कर साक्ष्य के माध्यम से साबित नहीं किया गया है। प्रकरण में प्रस्तुत दस्तावेज प्रदर्श पी-6 जो बहतीरिन बाई का मृत्यु प्रमाण पत्र है, जिसमें उसकी मृत्यु तिथि 08.10.2019 अंकित है उसमें उसके पति का नाम चिन्ताराम चौहान अंकित है। द्वितीय पक्ष के द्वारा अथवा शिकायतकर्ता के द्वारा बहतीरिन बाई का मृत्यु के पूर्व जब वह जीवित थी, तब विभागीय जांच कार्यवाही में बहतीरिन बाई का साक्ष्य क्यों लेखबद्ध नहीं कराया गया, जिससे यह स्पष्ट हो जाता कि बहतीरिन बाई ही चिन्ताराम की पत्नी है अथवा सुमति बाई चिन्ताराम की पत्नी है। परन्तु साक्ष्य के अभाव में द्वितीय पक्ष के विभागीय जांच में लिये गये साक्षियों के कथन की पुष्टि नहीं होती है कि कौसल चौहान ही गेंदराम चौहान है तथा उनके द्वारा फर्जी दस्तावेज तैयार कर एस.ई.सी.एल. में चिन्ताराम के अनफीट होने पर उनके स्थान पर नौकरी किया जा रहा है।

20. प्रकरण में प्रस्तुत प्रदर्श पी-40 आई.डी. कार्ड जो एस.ई.सी.एल. द्वारा दिनांक 28.02.2015 को जारी किया गया है, उक्त आई.डी. कार्ड में गेंदराम (प्रथम पक्ष) का फोटो चस्पित है तथा उसके हस्ताक्षर है और पिता का नाम स्व. चिन्ताराम उल्लेखित है। प्रदर्श पी-38 भारत निर्वाचन आयोग का मतदाता पहचान पत्र में भी गेंदराम का फोटो और पिता का नाम चिन्ताराम उल्लेखित है। प्रदर्श पी-37 ड्रायविंग लायसेंस में भी प्रथम पक्ष का फोटो चस्पित है। प्रदर्श पी-36 में आयकर विभाग द्वारा जारी पेन कार्ड में भी प्रथम पक्ष का फोटो और पिता का नाम चिन्ताराम उल्लेखित है। इस प्रकार प्रथम पक्ष (गेंदराम) के द्वारा उपरोक्त प्रस्तुत दस्तावेजों में उनका नाम, उनका फोटो और उनके पिता का नाम चिन्ताराम उल्लेखित है। दूसरी ओर द्वितीय पक्ष के द्वारा विभागीय जांच कार्यवाही में जिन जिन साक्षियों का कथन लेखबद्ध किया गया है, उनका कथन भी न्यायालय के समक्ष नहीं कराया गया है, ऐसी स्थिति में द्वितीय पक्ष के साक्षियों के कथन पर विपरीत प्रभाव पड़ता है।
21. प्रकरण में प्रस्तुत दस्तावेज प्रदर्श पी-21 का अवलोकन किया गया जिसमें चिन्ताराम, बहतीरिन बाई एवं नाबालिक रीना कुमारी के द्वारा गेंदराम पिता चिन्ताराम के विरुद्ध एक आवेदन पत्र अंतर्गत धारा 125 दं.प्र.सं. वास्ते भरण पोषण राशि दिलाये जाने बाबत न्यायालय न्यायिक दण्डाधिकारी प्रथम वर्ग कोरबा के समक्ष दिनांक 21.04.1992 को पेश किया गया था। न्यायालय न्यायिक दण्डाधिकारी के समक्ष चिन्ताराम के बयान प्रदर्श पी-24 में चिन्ताराम ने यह कथन किया है कि गेंदराम उसका पुत्र है, उसे मेडिकल अनफीट कर दिया गया और उसकी जगह उसके लडके गेंदराम को रजगामार कालरी में काम दिया गया है। इस प्रकार चिन्ताराम के द्वारा न्यायालय कोरबा के समक्ष यह कथन कि उनके अनफीट होने पर गेंदराम को एस.ई.सी.एल. में नौकरी दिया गया है तथा गेंदराम ही उसका पुत्र है, चिन्ताराम के उक्त स्वीकारोक्ति से स्पष्ट प्रमाणित होता है कि प्रथम पक्ष गेंदराम ही वास्तविक रूप से चिन्ताराम का पुत्र है, और चिन्ताराम के मेडिकल अनफीट होने पर गेंदराम प्रथम पक्ष ही उनकी जगह नौकरी कर रहा था, जबकि इसके विपरीत शिकायतकर्ता गेंदराम पागल होकर कई वर्ष पूर्व घर छोड़ कर के कहीं चला गया है, तो चिन्ताराम किस गेंदराम से भरण पोषण के लिए न्यायालय कोरबा के समक्ष यह धारा 125 भरण पोषण के लिए दावा पेश किया था, इस पर भी प्रथम पक्ष के द्वारा प्रस्तुत दावा को बल मिलता है। प्रदर्श पी-26 न्यायालय न्यायिक दण्डाधिकारी प्रथम श्रेणी कोरबा द्वारा दिनांक 09.02.2023 को पारित आदेश में चिन्ताराम/बहतीरिन बाई/रीना बाई का आवेदन पत्र अंतर्गत धारा 125 भरण भोषण दिलाये जाने बाबत स्वीकार कर गेंदराम को फरवरी 93 से 300-300 रुपये मासिक भरण पोषण राशि देने का आदेश पारित किया गया था। द्वितीय पक्ष के द्वारा विभागीय जांच कार्यवाही में जिन साक्षियों ने वास्तविक गेंदराम को पागल हो जाने और घर छोड़कर चले जाना कथन किये हैं ऐसी स्थिति में चिन्ताराम एवं बहतीरिन बाई के द्वारा उनके पुत्र को पागल हो जाने और घर छोड़ दिये जाने तथा भरण पोषण की राशि उन्हें प्राप्त नहीं होने के संबंध में किसी भी न्यायालय अथवा उचित फोरम में शिकायत नहीं किया जाना भी प्रथम पक्ष के दावा को बल मिलता है।
22. द्वितीय पक्ष के द्वारा बहतीरिन बाई का विभागीय जांच में कथन दर्ज नहीं कराया गया है तथा न्यायालय के समक्ष शिकायतकर्ता राजकुमार चौहान एवं तथाकथित शिकायतकर्ता गेंदराम को उपस्थित रखकर उनका साक्ष्य प्रस्तुत नहीं कराया गया है। उपरोक्त विश्लेषण के आधार पर यह प्रमाणित होता है कि प्रथम पक्ष गेंदराम ही वास्तविक रूप से चिन्ताराम का पुत्र है तथा बहतीरिन बाई उसकी माता है, चिन्ताराम के मेडिकल अनफीट होने के आधार पर चिन्ताराम के द्वारा प्रथम पक्ष गेंदराम का नाम उनके फोटो सहित प्रस्तावित कर, द्वितीय पक्ष विभाग एस.ई.सी.एल. में आवेदन के साथ प्रस्तुत किया गया था और द्वितीय पक्ष के सक्षम अधिकारियों के द्वारा उक्त दस्तावेजों की जांच कर, तथा सही पाकर आवेदन को स्वीकार किया गया था और इसी आधार पर प्रथम पक्ष गेंदराम को नौकरी प्रदान

की गई थी। ऐसी स्थिति में प्रथम पक्ष का बर्खास्तगी आदेश दिनांक 07.02.2017 अवैध एवं अनुचित होने से शून्य घोषित किया जाता है। अतः वाद प्रश्न क्रमांक-1 का निष्कर्ष हों में निराकृत किया जाता है।

वाद प्रश्न क्रमांक-2 का निष्कर्ष

23. चुंकि वाद प्रश्न क्रमांक-1 का निष्कर्ष प्रथम पक्ष गेंदराम के पक्ष में प्रमाणित हुआ है। प्रथम पक्ष ने वर्ष 1990 से 07.02.2017 तक कुल 27 वर्षों तक द्वितीय पक्ष संस्थान में कार्यरत होना अभिवचन किया है। औद्योगिक विवाद अधिनियम, कल्याणकारी अधिनियम है। प्रथम पक्ष दिनांक 07.02.2017 के पश्चात से प्रथम पक्ष लगभग 06 वर्ष तक लम्बी कानूनी प्रक्रिया से झुझता रहा है, जो निश्चित रूप से ही प्रथम पक्ष के साथ साथ उनके परिवार/आश्रितों को आर्थिक एवं मानसिक परेशानियों का सामना करना पड़ा है। हालांकि प्रथम पक्ष ने उसकी सेवा समाप्ति दिनांक 07.02.2017 के पश्चात से बेरोजगार होने तथा अन्यत्र कार्यरत नहीं होने के संबंध में अपने दावा में, अपने शपथ पत्र में तथा अपने न्यायालयीन कथन में कहीं भी उल्लेख नहीं किया है और न ही इस संबंध में कोई दस्तावेज या प्रमाण पत्र पेश किया गया है। द्वितीय पक्ष के द्वारा भी प्रथम पक्ष के बेरोजगार होने अथवा नहीं होने के संबंध में भी कोई स्पष्ट साक्ष्य एवं दस्तावेज पेश नहीं किया गया है। यद्यपि प्रथम पक्ष सेवा समाप्ति के समय 48 वर्ष का व्यक्ति होना अभिलेख के अनुसार दर्शित होता है ऐसी स्थिति में यह नहीं कहा जा सकता कि प्रथम पक्ष सेवा समाप्ति के बाद से पूर्ण रूप से बेरोजगार है। ऐसी स्थिति में प्रथम पक्ष को पिछला सम्पूर्ण हितलाभ दिलाया जाना उचित प्रतीत नहीं होता है, बल्कि प्रथम पक्ष को उसकी सेवा समाप्ति दिनांक 07.02.2017 से उसे प्राप्त होने वाले अंतिम वेतन का एक चौथाई पारिश्रमिक दिलाया जाना उचित प्रतीत होता है। इस कारण वाद प्रश्न क्रमांक-2 का निराकरण अंशतः प्रमाणित में यह दिया जाता है कि प्रथम पक्ष उसे प्राप्त होने वाले अंतिम वेतन का एक चौथाई वेतन प्राप्त करने का अधिकारी है।

वाद प्रश्न क्रमांक-3 का निष्कर्ष

24. इस संबंध में प्रथम पक्ष गेंदराम ने अपने स्टेटमेंट आफ क्लेम में यह अभिवचन किया कि आरोप पत्र के आधार पर द्वितीय पक्षकार के द्वारा जांच की कार्यवाही, जांच अधिकारी श्री ए.के. वर्मा कॉलरी मैनेजर के द्वारा की गई, जिसका प्रथम जांच दिनांक 23.12.2015 को किया गया, तदोपरान्त 29.12.2015 को जांच की तिथि तय की गई थी। इस संबंध में द्वितीय पक्ष के साक्षी अमीता चौहान के न्यायालयीन कथन का अवलोकन किया गया जिसके प्रतिपरीक्षण में साक्षी ने स्वीकार की है कि गेंदराम की नियुक्ति उसके पिताजी के मेडिकल अनफीट के कारण उनके स्थान पर हुई थी। गेंदराम ने ऐसा कोई दस्तावेज नहीं दिया, जिससे यह दर्शित हो सके कि वह फर्जी व्यक्ति है। प्रदर्श पी-1 से लेकर प्रदर्श पी-7 तक के दस्तावेजों का निष्पादन चिन्ताराम द्वारा कम्पनी के अधिकारियों के समक्ष किया था, जिसके आधार पर प्रदर्श पी-8 के द्वारा ये सभी दस्तावेज नियुक्ति की अनुसंधान के साथ कम्पनी को भेजा गया था। इस साक्षी ने यह भी स्वीकार की है कि गेंदराम के वोटर आईडी कार्ड और स्कूल सर्टिफिकेट की कोई भी दस्तावेज उसके द्वारा न्यायालय में पेश नहीं की गई है। प्रतिपरीक्षण में साक्षी ने यह भी स्वीकार किया है कि गेंदराम को दस्तावेज की कापी दी गई थी जिसमें उससे पावती ली गई थी, उसकी पावती न्यायालय के समक्ष पेश नहीं है। यह भी स्वीकार की है कि जांच हेतु और आदेश देने हेतु सक्षम अधिकारी सब एरिया मैनेजर है। प्रदर्श डी-1 के अलावा गेंदराम को और कोई आरोप पत्र जारी नहीं किया गया, दिनांक 06.11.2015 को जारी कारण बताओं नोटिस उसने प्रकरण में पेश नहीं किया है। प्रतिपरीक्षण में साक्षी ने यह भी स्वीकार की है कि ऐसा कोई दस्तावेज नहीं है, जिसमें गेंदराम को आरोप पत्र दिनांक 11.09.2015 जारी किया गया था, जिसके आधार पर गेंदराम को सेवा से बर्खास्त किया गया है। यह भी स्वीकार की है कि प्रदर्श डी-16 में प्रारंभिक जांच करने का उल्लेख है, किन्तु इस संबंध में कोई भी प्रति प्रबंधन द्वारा पेश नहीं किया गया है। यह भी स्वीकार की है कि प्रबंधन द्वारा सुमति बाई चिन्ताराम की पत्नी है, ऐसा कोई दस्तावेज न्यायालय में पेश नहीं किया है। प्रदर्श डी-21 में शिकायतकर्ता राजकुमार ने कोई भी दस्तावेज गेंदराम के विरुद्ध पेश नहीं किया था और गवाही के दौरान अगली बैठक में पेश करने का कथन किया था। जांच कार्यवाही के अंतिम लाइन में पूर्व में अगली बैठक का तिथि दिन सोमवार दिनांक 25.07.2016 नियत किया गया था तथा सभी पक्षकारों के हस्ताक्षर होने के पश्चात बाद में इसे फेब्रिकेट कर, दिन सोमवार को काटा गया तथा तारीख को 26.07.2016 को रखा जाता है, ऐसा कांटाछांट किया गया जिसमें किसी भी पक्षकार का हस्ताक्षर नहीं लिया गया। यह भी स्वीकार की है कि प्रदर्श डी-34 के 29वीं बैठक में निर्धारित तिथि के पहले दिनांक 13.01.2017 को बिना समुचित सूचना के जांच कार्यवाही गेंदराम के बिना उपस्थिति के की गई, बिना एकपक्षीय किये निर्धारित तिथि के 10 दिन पूर्व जांच कार्यवाही की गई। साक्षी ने प्रतिपरीक्षण में यह भी स्वीकार की है गेंदराम को सेवा से बर्खास्त दिनांक 26.11.2015 के आधार पर नहीं किया गया है, बल्कि चार्जशीट क्रमांक 3352 दिनांक 11.09.2015 के आधार पर किया गया है और उक्त दस्तावेज उनके पास नहीं है और न ही उन्होंने न्यायालय में पेश

किया है। इस साक्षी ने यह भी स्पष्ट स्वीकार की है कि राजकुमार द्वारा पेश शिकायत फर्जी है इसलिए शिकायत की मूल प्रति एवं छायाप्रति पेश नहीं किया है।

25. द्वितीय पक्ष के साक्षी अमीता चौहान ने अपने प्रतिपरीक्षण में यह स्वीकार की है कि जांच हेतु और आदेश देने हेतु सक्षम अधिकारी सब एरिया मैनेजर है, जांच कमेटी गठन के आदेश का कोई दस्तावेज उनके द्वारा पेश नहीं किया गया है, प्रदर्श डी-1 के अलावा गेंदराम को ओर कोई आरोप पत्र नहीं दिया गया है। प्रतिपरीक्षण में इस साक्षी ने यह भी स्वीकार की है कि ऐसा कोई दस्तावेज पेश नहीं है, जिसमें गेंदराम को आरोप पत्र दिनांक 11.09.2015 जारी किया गया था, जिसके आधार पर गेंदराम को सेवा से बर्खास्त किया गया है। यह भी स्वीकार की है कि क्षेत्रीय कार्मिक प्रबंधक कोरबा क्षेत्र के पत्र क्रमांक 398 दिनांक 07.02.2017 द्वारा जो अनुसंधान प्राप्त हुई है, उसी के आधार पर गेंदराम को सेवा से बर्खास्त किया गया है। साक्षी ने यह भी स्वीकार की है कि 26.07.2016 को 17वीं बैठक प्रदर्श डी-22 में गेंदराम उपस्थित हुआ था क्योंकि इसके पूर्व बैठक में तारीख और दिन को कांटेछांट किया गया था, जिसकी जानकारी गेंदराम को नहीं हुई थी। प्रतिपरीक्षण में यह भी स्वीकार किया गया है कि प्रदर्श डी-34 के 29वीं बैठक में निर्धारित तिथि के पहले दिनांक 13.01.2017 को बिना समुचित सूचना के जांच कार्यवाही गेंदराम की बिना उपस्थिति के की गई, बिना एकपक्षीय किये निर्धारित तिथि के 10 दिन पूर्व जांच की कार्यवाही की गई, जबकि गेंदराम का मेडिकल सर्टिफिकेट प्रदर्श पी-16 मेडिकल आफिसर द्वारा जारी बीमारी सर्टिफिकेट 11.01.2017 गेंदराम की ओर से प्रस्तुत किया गया था।
26. प्रकरण में प्रस्तुत प्रदर्श पी-9 जो राजकुमार चौहान का शिकायत पत्र है, का अवलोकन किया गया। उक्त शिकायत पत्र राजकुमार चौहान के द्वारा दिनांक 24.11.2015 को उप क्षेत्रीय प्रबंधक, एस.ई.सी.एल. रजगामार को दिया गया है, जिसमें एस.ई.सी.एल. के अधिकारी द्वारा उक्त शिकायत पर संज्ञान लते हुए दिनांक 27.11.2015 को कृपया त्वरित कार्यवाही की प्रक्रिया करें, की टीप अंकित किया गया है, जिसमें द्वितीय पक्ष कम्पनी के अधिकारी के हस्ताक्षर हैं। इसी प्रकार प्रदर्श पी-11 का अवलोकन किया गया, जो उप क्षेत्रीय प्रबंधक रजगामार उपक्षेत्र के द्वारा प्रथम पक्ष गेंदराम को आरोप पत्र क्रमांक 1405 दिनांक 26.11.2015 जारी किया गया है, जिसकी पुष्टि द्वितीय पक्ष के साक्षी अमीता चौहान के प्रतिपरीक्षण की कंडिका-35 की यह स्वीकारोक्ति कि शिकायत विभाग के संज्ञान में दिनांक 27.11.2015 को पहली बार आया इसके पहले गेंदराम के विरुद्ध विभाग में कोई शिकायत प्राप्त नहीं होने के कथन से होती है। अब प्रश्न यह उत्पन्न होता है कि शिकायतकर्ता के द्वारा प्रदर्श पी-9 का शिकायत पत्र दिनांक 24.11.2015 को दिया गया, जिसका एस.ई.सी.एल. द्वारा संज्ञान दिनांक 27.11.2015 को लिया गया, परन्तु प्रदर्श पी-11 का आरोप पत्र दिनांक 26.11.2015 को प्रथम पक्ष गेंदराम को दिया गया है, ऐसी स्थिति में जब शिकायत का संज्ञान दिनांक 27.11.2015 को लिया गया है तब उसके ठीक एक दिन पूर्व दिनांक 26.11.2015 को आरोप पत्र दिया गया है, इस प्रकार शिकायत प्राप्त होने के एक दिन पूर्व ही आरोप पत्र दिया जाना प्रथम दृष्टया प्रमाणित होता है जो, निश्चित रूप से प्राकृतिक न्याय के सिद्धान्त के विपरीत है।
27. एस.ई.सी.एल. की ओर से की गई विभागीय जांच कार्यवाही की 27वीं बैठक दिनांक 27.12.2016 प्रदर्श पी-14 का अवलोकन किया गया। उक्त जांच कार्यवाही में जांच अधिकारी ने आरोपी पक्ष को अपना पक्ष रखने का मौका दिया था, जिस पर आरोपी ने प्रबंधन द्वारा जो गवाह प्रस्तुत किये गये हैं, उन्हें प्रस्तुत किये जाने का निवेदन किया था ताकि उनका प्रतिपरीक्षण किया जा सके, तब प्रबंधन प्रतिनिधि ने गवाह आज उपस्थित नहीं होने के कारण एक दिन का समय दिये जाना व्यक्त किया, जिसे स्वीकार करते हुए अगली तिथि दिनांक 28.12.2016 शाम 4. बजे निर्धारित की गई। आरोपी के द्वारा दिनांक 27.12.2016 को ही एनेक्जर 1 पेज 1 से 37 तक के दस्तावेज जांच के दौरान जमा किया था। परन्तु प्रबंधन प्रतिनिधि के द्वारा उक्त दस्तावेज अगली तिथि दिनांक 28.12.2016 को प्रस्तुत नहीं किया गया, जिससे स्पष्ट दर्शित होता है कि यदि प्रथम पक्ष के द्वारा चाहे गये दस्तावेज प्रबंधन प्रतिनिधि द्वारा प्रस्तुत नहीं किया जाकर, उन्हें बचाव का अवसर नहीं दिया गया।
28. विभागीय जांच कार्यवाही की 28वीं बैठक दिनांक 28.12.2016 प्रदर्श पी-15 के ए-से-ए भाग के अवलोकन से दर्शित है कि अगली तिथि 23.01.2017 को प्रातः 10. बजे निर्धारित किया गया था और इसकी अलग से कोई सूचना नहीं देना उल्लेखित किया गया है। उसके बाद प्रबंधन प्रतिनिधि द्वारा विभागीय जांच कार्यवाही की 29 वीं बैठक दिनांक 13.01.2017 (प्र.डी.-34), 30वीं बैठक दिनांक 14.01.2017 (प्र.डी.-35), 31वीं बैठक दिनांक 15.01.2017 (प्र.डी.-36), 32वीं बैठक दिनांक 16.01.2017 (प्र.डी.-36), 33वीं बैठक दिनांक 17.01.2017 (प्र.डी.-38), 34वीं बैठक दिनांक 18.01.2017 (प्र.डी.-39), 35वीं बैठक दिनांक 20.01.2017 (प्र.डी.-40), 36वीं बैठक दिनांक 21.01.2017 (प्र.डी.-41), 37वीं बैठक दिनांक 23.01.2017 (प्र.डी.-42) आयोजित किया गया। यद्यपि प्रबंधन प्रतिनिधि के द्वारा दिनांक 28.12.2017 के 28वीं जांच कार्यवाही में अगली जांच कार्यवाही दिनांक 23.01.2017

को होना उल्लेखित करते हुए दिनांक 28.12.2017 से 23.01.2017 तक 8-9 जांच कार्यवाही बिना आरोपी के उपस्थिति के सम्पादित कर दिया गया और उसमें भी आरोपी को अनुपस्थित बताते हुए जांच कार्यवाही पूर्ण कर समाप्त किया जाना उल्लेखित किया गया है। ऐसी स्थिति में यह भी स्पष्ट रूप से प्रमाणित होता है कि प्रथम पक्ष गेंदराम की अनुपस्थिति में उक्त जांच कार्यवाही किया जाना, प्राकृतिक एवं नैसर्गिक जांच कार्यवाही के सिद्धान्त के विपरीत है।

29. इस प्रकार उपरोक्त विश्लेषण के आधार पर द्वितीय पक्ष के द्वारा प्रथम पक्ष गेंदराम को शिकायत पूर्व, आरोप पत्र दिया जाना, प्रथम पक्ष को बिना सूचना दिये जांच कार्यवाही की तिथि में परिवर्तित कर, जांच कार्यवाही किया जाना, प्रथम पक्ष द्वारा चाहे गये दस्तावेजों को जांच प्रक्रिया में प्रस्तुत नहीं किया जाना निश्चित रूप से द्वितीय पक्ष के द्वारा प्रथम पक्ष जांच अधिकारियों के द्वारा जांच कार्यवाही में प्राकृतिक न्याय के सिद्धान्त का पालन नहीं किया जाना दर्शित होता है। अतः वाद प्रश्न क्रमांक-3 का निष्कर्ष नहीं में निराकृत किया जाता है।

वाद प्रश्न क्रमांक-4 सहायता एवं व्यय

30. उपरोक्त वाद प्रश्नों के विश्लेषण में प्रथम पक्ष गेंदराम अपना दावा प्रमाणित करने में सफल रहा है। ऐसी स्थिति में प्रथम पक्ष की ओर से प्रस्तुत स्टेटमेंट आफ क्लेम प्रमाणित पाये जाने से स्वीकार किया जाता है। अतः प्रकरण में निम्नानुसार अधिनिर्णय पारित किया जाता है:-

1. द्वितीय पक्ष एस.ई.सी.एल. सब सरिया मैनेजर रजगामार, सब एरिया कोरबा (छ.ग.) को आदेशित किया जाता है कि अधिनिर्णय की घोषणा दिनांक से 30 दिवस के भीतर प्रथम पक्ष (गेंदराम चौहान) को उसके पूर्व पद (जनरल मजदूर) पर पुनः स्थापित करें।
2. द्वितीय पक्ष एस.ई.सी.एल. को आदेशित किया जाता है कि अधिनिर्णय की घोषणा दिनांक से 30 दिवस के भीतर प्रथम पक्ष गेंदराम चौहान को उसकी सेवा समाप्ति दिनांक 07.02.2017 से सेवा में पुनर्स्थापित किये जाने के दिनांक तक एक चौथाई पारिश्रमिक भुगतान करें।
3. द्वितीय पक्ष एस.ई.सी.एल. अधिनिर्णय की घोषणा दिनांक से 30 दिवस के भीतर प्रथम पक्ष गेंदराम चौहान को पुनः सेवा में स्थापित नहीं करने तथा एक चौथाई पारिश्रमिक का भुगतान नहीं करने पर, सेवा समाप्ति दिनांक से, सेवा में पुनर्स्थापित करने के दिनांक तक प्रथम पक्ष को उसके वेतन का 50 प्रतिशत पारिश्रमिक एवं 6 प्रतिशत वार्षिक ब्याज पृथक से अदा करने हेतु उत्तरदायी रहेगा।
4. उभय पक्ष अपना अपना वाद व्यय स्वयं वहन करेंगे।

अधिनिर्णय पारित, हस्ताक्षरित,

अधिनिर्णय मेरे निर्देश पर

दिनांकित

टंकित

Sd/-

Sd/-

(अविनाश के. त्रिपाठी)

(अविनाश के. त्रिपाठी)

श्रम न्यायाधीश

श्रम न्यायाधीश

औद्योगिक विवाद अधिनियम

औद्योगिक विवाद अधिनियम

श्रम न्यायालय बिलासपुर (छ.ग.)

श्रम न्यायालय बिलासपुर (छ.ग.)

नई दिल्ली, 15 सितम्बर, 2023

का.आ. 1517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 46/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/176/2005—आई. आर. (सी.एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 15th September, 2023

S.O. 1517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 46/2006**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.**, and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/176/2005-IR (CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 46 OF 2006

PARTIES: Ganesh Bouri
Vs.
Management of Nimcha Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. S. K. Pandey, Union representative.

For the Management: Mr. P. K. Goswami, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 05.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/176/2005-IR(CM-II)** dated 03.08.2006 has been pleased to refer the following dispute between the employer, that is the Management of Nimcha Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of Nimcha Colliery of M/s. ECL in dismissing Sri Ganesh Bouri, U.G. Loader from service w.e.f. 3.7.2004 is legal and justified? If not, to what relief is the workman is entitled? ”

1. On receiving Order **No. L-22012/176/2005-IR(CM-II)** dated 03.08.2006 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 46 of 2006** was registered on 14.08.2006 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P.K. Goswami, learned Advocate for Eastern Coalfields Limited has appeared along with Mr. Sumit Choudhury, the Management Witness. Case is fixed up today for appearance of Mr. S.K. Pandey, Union representative and for evidence of Management Witness and in the event of non-representation of the dependents of the workman, the case shall be dismissed. It is 12:05 PM now. On call none appears for the substituted dependents of Ganesh Bouri. On perusal of record, it appears that a direction was given to the office on 19.09.2022 to issue notice to the substituted dependent of workman and the same has been complied on 30.09.2022 where by a notice was issued to Smt. Rubi Bouri, wife of the deceased workman. None appeared on behalf of substituted dependents of Ganesh Bouri. It appears to me that evidence neither has been adduced on behalf of the dismissed workman nor his legal representatives. Under such circumstances, no onus lies upon the Management to adduce any evidence. The witness attending the court is discharged without examination due to non-representation of the workman.

3. Since Ganesh Bouri and thereafter his legal representatives have not come forward to establish their claim and Mr. S.K. Pandey, Union representative failed to turn up, I am of the view that the legal heirs of the dismissed workman are not inclined to pursue this Industrial Dispute. Therefore, the Reference case is dismissed in form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 18 सितम्बर, 2023

का.आ. 1518.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (6/2010) प्रकाशित करती है।

[सं. एल-12011/33/2009- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 18th September, 2023

S.O. 1518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.6/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen.

[No. L-12011/33/2009- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 6 OF 2010

Parties : Employer in relation to the management of

Punjab & Sind Bank

AND

Its Workmen

Appearance :

On behalf of the Management : Absent

On behalf of the Workman : Absent

Dated: 10th July, 2023

AWARD

By Order No L-12011/33/2009/(IR) (B-II) dated 02-06-2009, the Central Government, Ministry of Labour in exercise of the power conferred under section 10 1(d) and (2A) of the Industrial Dispute Act, 1947 has referred the following dispute for adjudication:

“Whether the action of the management in regard to deduction of salary from the participant employees on the days of Dharna in spite of their duly furnished leave applications is justified? What relief the workmen are entitled to?”

The facts giving rise to the present dispute in brief are that on detection of grave irregularities and misconduct committed by one Sri Goutam Sengupta, in his personal capacity as a Special Assistant of Punjab and Sind Bank, RCC Branch, Kolkata and who also happens to be the General Secretary of All India Punjab & Sind Bank Staff Organisation, the management had charge sheeted him on 30th May, 2008.

The Union to create a pressure upon the management for withdrawal of the charge sheet against said Sri Goutam Sengupta and to obtain mandate to 9th bipartite settlement resorted to demonstration and Dharna within the Zonal Office, Kolkata on different dates.

That several workmen of the bank who owe their allegiance to the trade union and in order to participate in the demonstration and dharna on 13th August, 2008 and 4th September, 2008 during the working days have applied for casual leave. They on assumption that their leave was granted by concerned authorities absented themselves from the duty and took part in the agitation programmed on 13-08-2008 and 04-09-2008.

That due to absence of the staff on those two dates there was shortage of staff strength and the business of the bank was hampered and suffered. Therefore, the bank deducted two days' salary of those staff who participated in the demonstration and dharna and for remaining on unauthorized absence.

It has been alleged by the Union, since those staff were on casual leave in view of clause 13.28 of bipartite settlement dated 19-10-1966 they are entitled to pay and allowance on casual leave as if they were presumed to be on duty. They have also alleged the management in order to thwart the trade union activities had taken such illegal decision. Therefore, they have prayed for setting aside the action of the bank management with regard to deduction of the salary from the participant employees on the date of Dharna/demonstration on 13-08-2008 and 04-09-2008.

On the contrary, the bank has alleged the action of the staff of the bank to participate in the demonstration or dharna on 13-08-2008 and 04-09-2008 without any sanctioned leave is strictly prohibited under the provision of section 36 AD of the Banking Company Regulation Act, 1949.

As per the staff circular no. 1921/16th June, 1989 wages are not payable to workmen for remaining absent for the cause of a strike/demonstration/ Dharna. The service condition of the workmen of the bank is governed by the bipartite settlement executed by and between the management of the bank and the trade union. Apart from such bipartite settlement, various circulars which are administrative in nature are issued from time to time and the same are binding on the management as well as on the workmen. Any infringement thereof, attracts the mischief of the consequences that are enumerated in the circulars/ administrative guidelines or in the bipartite settlement. Therefore, it has prayed for dismissal of the reference.

The Union in order to substantiate its case has examined Sri Goutam Sengupta, General Secretary as W.W. 1 and Sri Kashinath Ojha, one of the members of the Union as W.W. 2. But, no documents whatsoever have been produced from the side of the union.

The Union has filed evidence in chief of one Sri Swapan Saha, but whom it has failed to produce to tender his evidence in chief on affidavit and face cross examination. Therefore, such incomplete evidence of Sri Swapan Saha is not considered.

Similarly, the management has filed evidence in chief of Md. Hridyatulla Seikh and that of Mrs. Padmini Dash, but whom bank has failed to produce to tender their evidence in chief on affidavit and face cross examination by the Union. Similarly, no documents have been filed by the management to substantiate its case.

However, it is an admitted fact that there was Dharna/demonstration in the regional office of the bank at Kolkata on 13-08-2008 and 04-09-2008. It is also admitted fact that the said Dharna and demonstration was held by the Union to protest against the charge sheet issued against its general secretary Sri Goutam Sengupta, W.W.1 for his alleged personal misconduct and in respect of 9th bipartite settlement.

Under the circumstances the issue that requires determination is whether the demonstration called by the union is legal and justified and whether the employees are entitled to wages on the days they took part in the demonstration held on 13-08-2008 and 04-09-2008 without sanctioned casual leave?

The W.W. 1 Sri Guotam Sengupta, General Secretary of the Union, in his cross examination has admitted that the issue which was involved in the said demonstration and dharna held on 13-08-2008 and 04-09-2008 was against he being charge sheeted by the management for his alleged misconduct in his individual capacity as an employee of the bank, but he at the same time has stated that dharna was called when the bank did not give consent to the bipartite settlement arrived at in between the bank and the union. He also admitted that no previous notice of dharna which was held on 13-0-8-2008 and 04-09-2008 were served upon the management of the bank, but at the

same time he stated that it is not mandatory to serve the notice to the management about the demonstration like in case of strike.

W.W.2 during his cross examination has stated that he took part in the demonstration as his Manager had orally sanctioned leave to him. That bank employees take their leaves as their right. He also stated that 15/16 employees participated in the demonstration and there was no disturbance of the normal function of the bank due to such demonstration. He at the same time admitted that bank discharge public utility service. That the union issued prior notice to the bank about the demonstration on 13-08-2008 and 04-09-2008.

Unfortunately, the W.W.2 and the Union have failed to produce the copy of prior notice of demonstration served upon the management, informing it about the demonstration that would be held in the regional office at Calcutta on 13-08-2008 and 04-09-2008, during office day and banking hours.

Further the union has failed to produce copy of 9th bipartite settlement that was executed in between the bank and the union and which the bank failed to comply to justify the demonstration.

It is true in the present case the Union of the Bank had resorted to Protest/Dharna and Demonstration at Regional Office at Kolkata on 13-08-2008 and 04-09-2008, against the alleged high handedness action of the Management. Industrial Dispute Act, is silent on the subject of protest/demonstration and dharna by the Industrial employees during working days. However, the right to protest is a Fundamental Right.

It has come on record 17/18 workmen to take part in the protest/demonstration on 13-08-2008 and 04-09-2008 which were working days, they had applied for leave and they were under impression their leave was approved by the authority, they joined the protest demonstration.

Leave is a legal entitlement of an employee but not a prerogative. Every employee has right to avail leave and to be absent to the work under any circumstances but at the same time they have to adhere to the leave policy and availing the leaves within the limit and as per procedure laid down therein must be followed by every employee. Leave is not a right. Mere filing of the leave application by a group of employees to join a protest demonstration without approval of the same cannot be considered to be a sanctioned leave. It is true that there may be an unforeseen situation and emergency situation which may compelled an employee to absent himself from the duty without prior approval of leave or without filing a leave application and his such absence cannot be considered to be an unauthorised leave. But if a group of employees engaged in public utility or banking service in order to join a protest demonstration against the Management during working days ought to have obtained sanctioned leave from the Authority concerned, so the business of the bank is not hampered and bank customers or public at large is not harassed due to shortage of the staff.

That apart nothing has come on record to show that notice of the demonstration during the office hours and working days was duly served upon the management informing the management in advance. The management in the public banking sector is not the capitalistic and the workmen an exploited both are paid employees and own their existence to the direct investment to the public fund. Both are expected to represent public interest directly and have to promote them. Therefore, the Union is expected to inform the Management about its proposed demonstration during banking hours well in advance and allow the management of the bank to prepare itself to handle the business of the Bank with less number of staff/workmen. The staff who intend to take part in the protest demonstration ought to have remained absent from duty after due sanction and approval of his/their leave.

Therefore, the absence without approval of leave can be deemed to be unauthorised and management has prerogative right to deal with such unauthorised leave and impose punishment having regards to the facts and circumstances.

Further, from the materials on record it appears the Union in order to create a pressure upon the management for withdrawal of the charge sheet filed against its General Secretary, for his misconduct had organised demonstration and protest against the management to put pressure for withdrawal of the same.

In view of the above, this Tribunal holds the action of the Management of Punjab and Sind Bank in deducting salary of two days of those staff who participated in protest demonstration without prior approval or sanctioned leave to be just and legal. Accordingly, the reference case no. 06 of 2010 is disposed of and Award is passed to that effect.

K. D. BHUTIA Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1519.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, आईसीएआर-नेशनल ब्यूरो ऑफ फिश जेनेटिक रिसोर्सेज, कैनाल रिंग रोड, दिलकुशा मार्ग, लखनऊ; प्रोपराइटर /

ऑक्युपियर, मेसर्स ए. के. एसोसिएट्स, प्रियदर्शिनी कॉलोनी, सीतापुर रोड, लखनऊ, के प्रबंधन के संबद्ध नियोजकों और श्री मिथिलेश बाजपेयी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या 46/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19/09/2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-125-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1519.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 46/2022**) of the **Central Government Industrial Tribunal cum Labour Court—Lucknow**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, ICAR-National Bureau of Fish Genetic Resources, Canal Ring Road, Dilkusha Marg, Lucknow ; Proprietor/Occupier, M/s A K Associates, Priyadarshini Colony, Sitapur Road, Lucknow, and Shri Mithilesh Bajpai, Worker**, which was received along with soft copy of the award by the Central Government on 19/09/2023.

[No. L-42025-07-2023-125- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM-LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 46/2022

BETWEEN

Mithilesh Bajpai w/o Balram Babu Bajpai r/o Sub/Major R P Singh, 589-Kha 654/2 Avadh Nagar, Ring Road, Telibagh, Lucknow

AND

1. ICAR-National Bureau of Fish Genetic Resources, Canal Ring Road, Dilkusha Marg, Lucknow 226002, through its Director
2. M/s A K Associates, 3/47A, Sector B, Priyadarshini Colony, Sitapur Road, Lucknow through its Proprietor/ Occupier.

AWARD

Smt Mithilesh Bajpai, claimant has filed present adjudication case u/s 2A of the Act inter alia on the ground that he was initially appointed on the post of Telephone Operator with the respondent on 01.06.2005; however, her services were terminated by respondent No. 2 on 01.09.2021 in view of the direction issued by the respondent no. 1 vide a letter dated 31.08.2001 without assigning any reasons; accordingly, it pleaded by the claimant that disengaged of her services by the respondent no. 2 is against the provisions of section 25 F and H of the Industrial Disputes Act, 1947.

On 15.11.2022 an application has been moved on behalf of the claimant (W-6) that amicable settlement has entered between and they have assured that they will take her back and allow her to work with the opposite parties on which she was working with the respondents.

The claimant is present in person and Sri Pramod Kumar Awasthi, duly authorized by Sri Uttam Kumar, Director, ICAR, National Bureau of Fish Genetic Resources, Lucknow is present.

Smt. Mithilesh Bajpai, claimant once again has reiterated the averment made in her application dated 15.11.2022 and further submits that she is presently working with the respondents and the said fact was admitted by the authorized representative of the respondents.

For the foregoing reasons, the present adjudication case is disposed of on the ground that the parties have amicably settled the dispute, involved in the present case as the claimant has been allowed to discharge her duties with the ICAR, National Bureau of Fish Genetic Resources, Lucknow.

No order as to cost.

Lucknow.

JUSTICE ANIL KUMAR, Presiding Officer

21st April, 2023.

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1520.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हल्दिया डॉक कॉम्प्लेक्स उपभोक्ता सहकारी समिति लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (24/2010) प्रकाशित करती है।

[सं. एल-32012/1/2009- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.24/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Haldia Dock Complex Consumers' Cooperative Society Ltd. and their workmen.

[No. L-32012/1/2009- IR(B.II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 24 OF 2010

Parties : Employers in relation to the management of

Haldia Dock Complex Consumers' Cooperative Society Ltd.

AND

Its Workman

Appearance:

On behalf of the Management : Mr.Pringal Bhattacharya &

Rajdip Sinha, Advocate

On behalf of the Workman : Mr. Monoranjana Bhunia, Advocate.

Dated: 7th August, 2023

AWARD

By Order No L-32012/1/2009 /IR(B-II) dated 18-01-2010, the Central Government, Ministry of Labour in exercise of power conferred under section 10(1)(d) and (2A) of the Industrial Dispute Act, 1947 has referred the following issue to this Tribunal for adjudication –

“Whether the action of the management of Haldia Dock Complex Consumer Co-Operative Society Ltd., Haldia, District –Purba Midnapore in terminating Smt. Rinku Shome, Office Attendant, is justified? What relief the workman is entitled?”

The facts giving rise to the present reference in brief are that Haldia Dock Complex at Haldia Port, a Central Govt. Undertaking under the Ministry of Shipping, has a consumer co-operative society, known as Haldia Dock

Complex Consumer Co-Operative Society registered under the West Bengal Cooperative Society Act, 1983 at its main complex.

Smt. Rinku Shome, the concerned workman was appointed as a sales personnel in the store of the Co-Operative Society situate at Haldia Dock Main Complex on 04-05-1983. Her such service was confirmed on 03-08-1994. While she was discharging her duties as Sales Personnel she was charge sheeted for misconduct and the authority of the society initiated a departmental proceeding against her and in which she was found guilty to the charge. However, considering her financial difficulties and apology tendered by her, the findings of the departmental enquiry was suspended and she was allowed to join her duty not as a sales personnel but as an "Office Attendant". Latter, the society in the meeting of Board of Directors held on 18-10-2003 decided to abolish the post of Office Attendant w.e.f. 01-11-2013 and the concerned workman was duly informed about the same.

The Board of Directors of the society in a meeting held on 12-01-2004 decided to terminate the service of Smt. Rinku Shome w.e.f. 31-03-2014 and was informed her about the same vide letter dated 16-01-2004 with a direction to receive all her dues. Therefore, she was removed from the service w.e.f. 31-03-2004. Hence, this reference.

Haldia Dock Complex Consumer Co-Operative Society Ltd. in its written statement has alleged that Consumer Co-Operative Society registered under West Bengal Cooperative Society Act, 1983 and the concerned workman being an employee of such Co-Operative Society, the appropriate authority under the Act of 1983 is the Registrar of Co-Operative Society and who is the competent authority to hear all the disputes relating to cooperative society. The Industrial Tribunal has no jurisdiction to decide the present dispute. Therefore, it has prayed for dismissal of the reference.

The concerned workman to prove her case has examined herself as W.W. No.1. The documents produced from her side have been marked as Exhibit- W/1 to W/13 on formal proof being dispensed with as per order dated 16-01-2012.

On the other hand the Society has examined its four Directors namely Sri Sisir Kumar Bangal as M.W. No.1, Sri Khokon Kumar Dolui as M.W. No.2, Sri Nandalal Dinda as M.W. No.3 and Sri Dilip Kumar Das as M.W. No.4.

That documents produced by the Society have been marked as Exhibit- M/1 to M/18 on formal proof being dispensed with on 06-01-2012.

From the submission made by the Ld. Counsels for both sides and the pleadings of the parties, it is undisputed fact that Smt. Rinku Shome the alleged workman was an employee of Haldia Dock Complex Consumer Co-Operative Society Ltd. registered under the West Bengal Co-Operative Societies Act, 1983 (now repealed by Act of 2006) and not an employee of Haldia Dock Complex. Under the circumstances, let see whether this Tribunal has jurisdiction to try the dispute under reference.

From the documents that have been filed by the parties and from the Certificate of Registration it appears that Haldia Dock Complex Consumer Co-Operative Society is registered under West Bengal Co-Operative Society Act, 1983 in the year 1990.

Section 4(14) of West Bengal Co-Operative Society Act, 1983 provides Consumer Co-Operative Society means a co-operative society, the primary object of which is to supply consumer goods and to render such other services to its members and other consumers as may be required in the matter of supply and production of consumer goods and includes a federation of such co-operative societies.

From such definition of Consumer Co-operative Society, the Cooperative society under reference appears to be a society engaged in business/ trade in consumer goods/products for the satisfaction of its members as well as that of other consumers of the society. The nature of business in which the concerned society is engaged cannot function without the cooperation between it and its workmen for the supply or distribution of goods or service with a view to satisfy the human wants and wishes. Therefore, the systematic activity carried on by co-operation between an employer and his workmen for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature) is an industry, in view of Bangalore Water Supply and Sewerage Board etc. –vs- R. Raja Appa & Ors., 1978, AIR 548.

Further, the Hon'ble Supreme Court in Smt. K.A. Annamma –vs- the Secretary, Cochin Cooperative Hospital Society Ltd. arising out of S.L.P. (C) no.29765 of 2006, Civil Appeal No.197 of 2018 has held that a dispute raised by an employee of a cooperative society challenging the dismissal from service and which cannot be decided under the Co-Operative Act, then it should be decided by the machinery provided under the I.D. Act as dispute relating service matter between the employer society and the employee is an industrial dispute.

Therefore, in view of aforesaid decisions of the Hon'ble Supreme Court, the present dispute being between the employers, a Consumer Co-Operative Society and its employee over termination from service squarely falls within the ambit of industrial dispute. However, the present dispute is in between the employer Haldia Dock Complex Consumer Cooperative Society Ltd. registered under the State Act i.e. the West Bengal Co-Operative Societies Act,

1983 and its retrenched employee Smt. Rinku Shome. Then a question may arise, who is the appropriate government whether it is Central Govt. or the State Govt.? In case the appropriate government is the State Govt. of West Bengal, then this Tribunal lacks jurisdiction to hear and dispose of the reference.

Section 2 (a) defines “appropriate government” and which read as follows :-

“appropriate Government” means— (i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company or [concerning any such controlled industry as may be specified in this behalf by the Central Government] or in relation to an industrial dispute concerning [a Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or [the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)], or the Employees’ State Insurance Corporation established under section 3 of the Employees’ State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or [the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956)], or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962 (58 of 1962), or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (52 of 1963), or the Food Corporation of India established under section 3 or a Board of Management established for two or more contiguous States under section 16 of the Food Corporations Act, 1964 (37 of 1964), or [the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 (55 of 1994)], or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India [the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987)], or [an air transport service, or a banking or an insurance company], a mine, an oil field] [a Cantonment Board,] or a [major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and] [(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment;].

Gone through the West Bengal Co-Operative Societies Act, 2006 and on reading the same it appears Cooperative Society is an independent democratic organisation controlled by its members and who set the policies and take decisions. Cooperative Society is governed by its rules and by laws. The Board of Directors manages the affairs of the cooperative society as per the provision of section 32 of the West Bengal Cooperative Societies Act, 2006. In view of provisions of section 33 of the Act, the State Govt. may also depute Govt. officers to manage the affairs of a Co-operative Society under certain circumstances. Section 34 of the Act vest power to the Registrar to dissolve and re-constitute Board of any Co-operative Society or may appoint an Administrator, a State Govt. Official to manage the affairs of the society. It further appears the State Govt. has the power to issue directives to the cooperative society in case of dissolution of its Board of Directors, set a date for holding Annual General Meeting, in case the society has not held the election. The State Govt. has a power to inspect the cooperative society and give necessary directions thereof. Therefore, it appears the control of State Govt. over the cooperative society is large and extensive.

Further, section 102 of the West Bengal Cooperative Societies Act, 2006 provides, that the Registrar of co-operative society is the authority before whom any dispute concerning the management or business or affairs of co-operative society shall be filed for settlement, except the dispute arising out of a disciplinary action taken by the Co-operative Society against its paid employee and any dispute relating to election in a co-operative society. Thus, Section 102 excludes the jurisdiction of the Registrar to hear and settle the dispute relating to disciplinary action taken by the Co-Operative Society against its paid employees. However, the term ‘dispute’ is defined in section 4 (25) of the Act of 2006 as ‘dispute’ means any matter capable of being subject civil litigation, and includes a claim in respect of any sum payable to or by a Co-Operative Society. Therefore, reading section 102 and section 4 (25) conjointly, it appears the dispute arising out of a disciplinary action taken by the Co-Operative Society against its paid employees has to be filed before a Civil Court. In the present case before an Industrial Tribunal as dispute is in between the employer and

its employee in respect of termination of service of its paid employee. The ordinary civil court will have jurisdiction over the matter relating to claims in respect of any sum payable to or by a Co-Operative Society.

It is true the concerned consumer co-operative society is an independent organisation, registered under the West Bengal Co-operative Societies Act, 1983 but situated within the Haldia Dock Complex, a Central Govt. undertaking, but in view of section 2(a) of the I.D.Act, 1947 the appropriate Govt. in the present reference is the State Govt. i.e. Govt. of West Bengal and not Central Govt. Thus, remedy lies before the State Industrial Tribunal and not before this Central Industrial Tribunal.

Therefore, this Tribunal holds the Ministry of Labour, Govt. of India has wrongly referred the present dispute arising between the employer and employee of a co-operative society registered under the State Act to this Central Industrial Tribunal, merely because the co-operative society in question is located within Haldia Dock Complex at Haldia Port, a Central Govt. Undertaking.

In the above, this Tribunal lacks jurisdiction to hear the present reference and refrain itself from entering into the merit of the case and decide on the issue whether termination of Smt. Rinku Shome, a permanent employee of the Society is legal or not.

Thus the present reference case no. 24 of 2010 is found not maintainable before this Tribunal and an award is passed accordingly.

K. D. BHUTIA, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1521.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स श्रेष्ठ डिटेक्टिव सिक्योरिटी प्राइवेट लिमिटेड, के प्रबंधन के संबद्ध नियोजकों कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- आसनसोल पंचाट (संदर्भ संख्या 27 OF 2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 12.09.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-187-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1521.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27 OF 2023) of the **Central Government Industrial Tribunal cum Labour Court - Asansol** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. Shresth Detective Security Private Limited, and The Worker**, which was received along with soft copy of the award by the Central Government on 12.09.2023.

[No. L-42025-07-2023-187-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 27 OF 2023

PARTIES: Tarak Nath Gorai

Vs.

Management of M/s. Shresth Detective Security Pvt. Ltd.

REPRESENTATIVES:

For the Union/Workman: None.

For the Management: None.

INDUSTRY: Security Service
STATE: West Bengal.
Dated: 28.08.2023.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), The Deputy Chief Labour Commissioner (Central), Asansol under Ministry of Labour, Government of India, vide its Order No. 1(05)/2023/E dated 13.04.2023 has been pleased to refer the following dispute between the employer, that is the Management of M/s. Shresth Detective Security Private Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of M/s. Shresth Detective Security Pvt Ltd termination from service to Sri Tarak Nath Gorai, Ex Security Guard is justified or not? If not, what relief the workman is entitled to? ”

1. On receiving Order No. 1(05)/2023/E dated 13.04.2023 from the Deputy Chief Labour Commissioner (Central), Asansol, Ministry of Labour, Government of India, for adjudication of the dispute **Reference case No. 27 of 2023** was registered on 15.05.2023 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Notice was issued upon Sri Tarak Nath Gorai, the aggrieved workman and Ex-Security Guard working under M/s. Shresth Detective Security Private Limited, Durgapur. Director of the company was also notified but none appeared. On a perusal of report submitted by the Assistant Labour Commissioner (Central) and Conciliation Officer, Raniganj at Durgapur under Section 12(4) of Industrial Disputes Act, 1947 dated 06.04.2023 reveals that the management of M/s. Shresth Detective and Securities Private Limited, have terminated their workman Tarak Nath Gorai from service w.e.f. 01.08.2019 as per instruction of the main contractor M/s. FIS Payment Solutions and Services India Private Limited, engaged by the principal employer, the Bank of India, Benachity Branch, Durgapur. Since none of the party appeared on two consecutive dates after issuance of Notice under registered post, the Reference case is dismissed and a **No Dispute Award** is drawn up.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1522.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष, दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, मेट्रो भवन, फायर ब्रिगेड लेन, बाराखम्भा रोड, नई दिल्ली, कूप्स इंटरनेशनल हाई टेक सिक्योरिटी, डीएमआरसी मेट्रो भवन, फायर ब्रिगेड लेन के ठेकेदार, बाराखम्भा रोड, नई दिल्ली; सीसीईसीसी-केईसी जेवी डीसी-01, कार्यालय: मुंडका, रानी खेड़ा रोड के पास, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री मोहम्मद आशिक, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 44/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-184-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1522.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2022) of the **Central Government Industrial Tribunal cum Labour Court - II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chairmen, Delhi Metro Rail Corporation Ltd., Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi, Couops International Hi Tech Security, Contractor of DMRC Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi ; CCECC-KEC JV DC-01, Office : Mundka, Near Rani Khera Road, Delhi, and**

Shri Mohammad Ashik, Worker, which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42025-07-2023-184-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 44/2022

Date of Passing Award- 16th May, 2023

Between:

Mohammad Ashik S/o Mohd Anwarul,
R/o War No. 11, Gram-Dahsil, Post Ratanpur,
Thana, Singhwara, Dahsil Darbhanga, Bihar-847307.

Workman

Versus

1. The Chairmen,
Delhi Metro Rail Corporation Ltd.
Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi-110001.
2. Couops International Hi Tech Security,
Contractor of DMRC Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delh.
3. CCECC-KEC JV DC-01,
Office : Mundka, Near Rani Khara Road, Delhi-110081.

Managements

Appearances:-

- Sh. Arvind Kumar, Ld.A/R for the claimant (DLSA)
Shri Akhilesh , LWI, for DMRC.
Sh. Anil Sharma A/R alongwith advocate Sh. Shivam Tripathi, for the mgt no.3.

AWARD

The claimant has filed the application invoking the provision of 2A of the Id. Act alleging illegal termination of his service by the mgt no. 1 i.e DMRC with a prayer for reinstatement with continuity with service with full back wages and other consequential benefits including equal pay for equal work for retro respective effect.

The mgt DMRC by filing written statement challenged the maintainability of the proceeding and denying the employee and employer relationship. The mgt 3 i.e CCECC-KEC JV DC-01 filed written statement denying to have appointed the claimant at any point of time. The mgt no. 2 has been proceeded ex-parte. During the pendency of the proceeding a proposal for conciliation and an amicable settlement was given by the parties and pursuant to conciliation the claimant agreed to received Rs. 83,104/- from the mgt no. 3 towards his full and final settlement.

The claimant gave a statement to the effect that he has received the above said amount from the mgt no. 3 and thus, he has no dispute/claim against any of the mgt of this proceeding. Hence, this no dispute award is being passed. Hence ordered.

ORDER

The claim be and the same is disposed of as the claimant has no claim against the managements

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1523.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (01/2006) प्रकाशित करती है।

[सं. एल - L-39025/01/2023- IR(B-II)-41]

सलोनी] उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.01/2006) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-39025/01/2023- IR(B-II)-41]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Présent : Justice K. D. Bhutia, Presiding Officer.

Misc. Application. No. 01 OF 2006

Parties : Employers in relation to the management of

Punjab National Bank.

AND

It's Union

Appearance:

On behalf of Bank: Absent

On behalf of the Union : Absent

Dated: 12th July, 2023

ORDER

This is an application under section 33-A of the Industrial Dispute Act, 1947 filed by Punjab National Bank Employees' Union against the management of Punjab National Bank, alleging that during the pendency of Reference Case No.7 of 2005, the management of Punjab National Bank has brought changes in the service conditions of its employees in violation of amalgamation scheme as interpreted by the Hon'ble Supreme Court and the settlement as circulated vide circular No.1569 dated 06-02-1997 in the matter of determination of seniority.

It has been alleged that S.R.M.O., Calcutta circulated a priority list/ gradation list of its clerical staff changing the placement of erstwhile New Bank of India Employees to their detriment and without determining their seniority in view of amalgamation scheme as interpreted by the Hon'ble Supreme Court of India and as per the terms

and conditions of the settlement issued under circular no., 1569 dated 06-02-1997 and thereby made the employees of erstwhile New Bank of India junior placing them in such a position in the gradation list making them ineligible to get a posting on the post of Special pay and promotion and causing financial loss to them. That due priority list/gradation list circular dated 21-03-2006, several junior employees have been placed above the senior employees. Therefore, the union has prayed for passing necessary order.

It has also been contended, that Govt. of India, Ministry of Labour vide its order no.L-12011/122/2004 IR (B-II) dated 21-12-2004 referred the issue “whether the action of the management of Punjab National Bank, S.R.M.O., Calcutta to determine the seniority of the erstwhile New Bank of India employees in the matter of posting in the post carrying special allowance, promotion etc. is violative to the provision of settlement as circulated vide circular no.1569 dated 06-02-1997 has also the placement scheme dated 08-12-1993 or not? If yes, what remedy the workmen are entitled to, to this Tribunal for adjudication. From the office record it is seen such reference was registered as Reference Case No. 7 of 2005 and which was disposed of on 15-09-2005 by passing an award. The predecessor of this Tribunal has held that ratio of 2:1 is applicable for determination of minimum length of service and for preparation of priority list/gradation list for counting inter se seniority for the purpose of promotion. Further, held the allegations of the Union that the management in violation of the terms of placement scheme in preparing the priority list by not counting the complete months of service of the employees not tenable. That as per the settlement dated 01-11-1988, while preparing priority list, one mark has to be given for each completed year of service in the bank in clerical cadre (excluding period of apprenticeship and working in non-clerical post) from the date of appointment as probationer with a maximum of 25 marks and there is concept of allotting priority marks for completed months.

Now, by filing the present application under section 33A the Union has alleged the priority list/gradation list prepared by the management of the Punjab National Bank on 01-01-2006 is illegal, wrong and detrimental to the employees of New Bank of India which was merged with Punjab National Bank.

In order to determine the dispute involved in the present application, it is necessary to bring on record the background of the case. New Bank of India which was sustaining loss and was in verge of winding up. The Reserve Bank of India for the interest of the employees of such Bank advised the Union of India for merge of the same with Punjab National Bank. The R.B.I. also considered the relevant factors for determination of the inter se seniority of the employees of both the banks on merger/amalgamation, the ratio 2:1 has been adopted for preparation of priority list in respect of counting the inter se seniority for the purpose of promotion and posting in the posts carrying special allowance. Accordingly, Central Govt. framed placement scheme on 8th December, 1993. Such scheme was challenged before the Hon’ble Supreme Court in Civil Appeal No.4247-50 of 1996. Hon’ble Supreme Court upheld the scheme and held that ratio 2:1 is applicable for preparing priority list in respect of counting the inter se seniority for the purpose of promotion and post carrying special allowance. The employees of transferor and transferee bank will have same rights to pension, gratuity and other matters. In those cases ratio of 2:1 is not applicable.

The Bank in its written objection has alleged that it has to prepare gradation list/ priority list every year. It has to circulate the priority list on 1st January of every year to fill up the post of Special Assistant and other posts carrying special pay by determining the inter se seniority of employees of New Bank of India and its original employees. Such procedure was followed since the amalgamation of NBI with PNB and in accordance with notification dated 08-12-93 read with settlement dated 01-11.1988.

That the gradation list/priority list circulated on 01-01-2005 was found to be a defective due to error in sorting by the computer. Consequently no vacancy was filled up on the basis of the said list. Further, it has been alleged while placing the employees of NBI in the priority list/gradation list, the reduced length of service as per notification dated 08-12-1993 was not but the date of their joining New Bank of India was taken. Accordingly, the priority list/gradation list dated 01-01-2005 was rectified on 01-01-2006. The gradation list /priority list dated 01-01-2006 was prepared as per the settlement and placement scheme as interpreted by Supreme Court in Appeal No.4247-50 of 1996. Thus, it has alleged that there is no change in service conditions of ex-employees of NBI with PNB.

However, record shows the Union which has failed to pursue the application u/s 33A of the Act filed by it either by adducing evidence to prove that the priority list or gradation list prepared by the management of Punjab National Bank on 01-01-2006 was in violation of amalgamation and placement scheme dated 08-12-1993 and settlement circular no., 1569 dated 06-02-1997. The Union has failed to produce even a single document to show that the inter se seniority of the ex-employees of New Bank of India in PNB was hampered and affected their promotion prospect to those post with special pay due to the priority list/gradation list dated 01-01-2006 or that the gradation list dated 01-01-2006 was prepared illegally.

The Management of the Bank too has failed to pursue the present proceeding like the union/applicant. Thus this Tribunal has decided to dispose of the case on the basis of available materials on record in view of provision of Rule 22 of the Industrial Dispute (Central) Rules 1957.

Merely on the basis of an application under section 33A without the allegation made therein being corroborated by oral and documentary evidence this Tribunal is unable to hold that indeed there is a change in the

service condition of the employees of the erstwhile New Bank of India which was merged with Punjab National Bank in the year 1993.

Accordingly, the application under section 33A of the Industrial Dispute Act is dismissed.

The Misc. Application No.1 of 2006 is disposed of.

K. D.BHUTIA, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1524.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, उत्तरी दिल्ली नगर निगम, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सूर्य प्रकाश, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट(संदर्भ संख्या 116/2021) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42011/12/2021-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1524.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 116/2021) of the **Central Government Industrial Tribunal cum Labour Court - I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Commissioner, North Delhi Municipal Corporation, New Delhi, and Shri Surya Prakash, Worker**, which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42011/12/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1

ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.

Present : Justice Vikas Kunvar Srivastava (Retd.)
(Presiding officer)
CGIT, Delhi-1

ID No.116/2021

Shri Surya Prakash S/o Sh.Jagdish,
Through Nagar Nigam Karamchari Sangh
Delhi Pradesh, F-2/64, Sultanpuri,
Delhi-110086.

Claimant...

Versus

The Commissioner,
North Delhi Municipal Corporation,
S.P. Mukherjee, Civic Centre,
J.L.Nehru Marg,
New Delhi-110002.

Management...

None for the claimant

Shri Om Prakash Singh, AR for the management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/12/2021-IR(DU) dated 30.07.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the services of Sh.Surya Prakash S/o Sh.Jagdish as raised by Nagar Nigam Karamchari Sangh Delhi Pradesh vide letter dated 10.01.2019 were terminated by the management of North Delhi Municipal Corporation in an illegal and arbitrary manner?

If yes, whether Sh.Surya Prakash S/o Sh.Jagdish is entitled for reinstatement with full back wages, alongwith all consequential benefits? If yes, from which date and what further directions, if any, are necessary in this regard?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1525.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अधीक्षक, विभाग. पोस्ट ऑटोमेटेड मेल प्रोसेसिंग सेंटर, इंडिया पोस्ट महिपालपुर नई दिल्ली; मुख्य पोस्ट मास्टर जनरल (दिल्ली सर्कल) मेघदूत भवन, नई दिल्ली; संचार मंत्रालय, दूरसंचार विभाग, अशोक रोड, नई दिल्ली, के प्रबंधन के संबंध में नियोजकों और श्री सनोज कुमार, कामगार, द्वारा -अखिल भारतीय जनरल मजदूर ट्रेड यूनियन, कालकाजी, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट (संदर्भ संख्या 56/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -40011/5/2021-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1525.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2022) of the **Central Government Industrial Tribunal cum Labour Court - I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Superintendent, Dept. of Post Automated Mail Processing Centre, India Post Mahipalpur New Delhi ; The Chief Post Master General (Delhi Circle) Meghdoot Bhawan, New Delhi ; The Ministry of Communication, Dept. of Telecommunication, Ashoka Road, New Delhi, and Shri Sanoj Kumar, Worker, through-All India General Mazdoor Trade Union, Kalkaji, New Delhi**, which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-40011/5/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1
ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.**

Present : **Justice Vikas Kunvar Srivastava (Retd.)**
(Presiding officer)
CGIT, Delhi-1

ID No.56/2022

Shri Sanoj Kumar S/o Sh.Balveer Singh
Rept. By All India General Mazdoor Trade Union,
170 Bal Mukund Khand,
Giri Nagar, Kalkaji,
New Delhi-110028.

Claimant...

Versus

1. The Superintendent
Dept. of Post Automated Mail
Processing Centre,
India Post Mahipalpur,
New Delhi – 110 037.
2. The Chief Post Master General (Delhi Circle)
Meghdoot Bhawan,
New Delhi-110001.
3. The Ministry of Communication
Dept. of Telecommunication
Sanchar Bhawan, 20,
Ashoka Road,
New Delhi-110001.

Management...

None for the claimant

Shri Ritesh Kumar Jha, Dealing Assistant for Dept. of Post.

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.40011/5/2021-IR(DU) dated 02.02.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the demand of All India General Trade Union, Delhi vide letter dated 14.12.2020 in respect Sh.Sanoj Kumar S/o Sh.Balveer to the Superintendent, Dept of Post, Automated Mail Processing Centre, India Post, Mahipalpur, New Delhi and payment of his dues is proper, legal and justified? If so, to what relief Sh.Bhanu Pratap is entitled and what directions are necessary in this matter?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 25.05.2023

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1526.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सचिव, सी.बी.एस.ई., शिक्षा केंद्र, 2, सामुदायिक केंद्र, प्रीत विहार, दिल्ली ; मेसर्स किंग सिक्योरिटी गार्ड्स सर्विसेज प्रा. लिमिटेड, मोहम्मदपुर, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सचिन तोमर एवं 3 अन्य, द्वारा - समाजवादी कर्मचारी संघ (रजि.), जगतपुरी, दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1 नई दिल्ली पंचाट(संदर्भ संख्या 226/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42011/123/2022-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1526.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 226/2022) of the **Central Government Industrial Tribunal cum Labour Court - I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Secretary, C.B.S.E., Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi ; M/s King Security Guards Services Pvt. Ltd., Mohammadpur, New Delhi, and Shri Sachin Tomer & 3 others ,through- Samajwadi Karamchari Union (Regd.), Jagatpuri, Delhi**, which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42011/123/2022-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1
ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.**

Present : Justice Vikas Kunvar Srivastava (Retd.)
(Presiding officer)
CGIT, Delhi-1

ID No.226/2022

Shri Sachin Tomer & 3 others

By Samajwadi Karamchari Union (Regd.),

D-212, Gali No.10, Jagatpuri,

Mandoli Road, Delhi-110093.

Claimant...

Versus

1. The Secretary
C.B.S.E., Shiksha Kendra,
2, Community Centre,
Preet Vihar, Delhi-110092.
2. M/s King Security Guards Services Pvt. Ltd.
39-A/102, Near Ram Mandir,
Vill-Mohammadpur,
New Delhi-110 066.

Managements...

None for the claimant

Shri Karan Sokhi, A/R for the management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/123/2022-IR(DU) dated 27.05.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether Samajwadi Karmchari Union(Reg.) has locus standi to raise ‘industrial dispute’ under ID Act, 1947 i.r.o. Shri Sachin Tomer and 3 others vide letter dated 11.01.2021 against the management of M/s King Security Guards Services Pvt. Ltd. New Delhi (contractor) under Central Board of Secondary Education, Delhi?”

If yes, whether the demand raised by Shri Sachin Tomer and 3 others vide letter dated 11.01.2021 through Samajwadi Karmchari Union (Reg.) to the management of M/s King Security Guards Services Pvt. Ltd., New Delhi (contractor) under Central Board of Secondary Education, Delhi for reinstatement with continuity of service alongwith all consequential benefits including full back wages and payment of bonus for the year 2017-18 and 2018-19, is proper, legal and justified ? If yes, to what relief the disputant workers entitled and what directions are necessary in the matter ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.
3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.
4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 25.05.2023

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1527.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, राष्ट्रीय भवन निर्माण निगम लिमिटेड,आईएमसी रखरखाव इकाई, लोधी रोड, नई दिल्ली; मैसर्स अल्फा सिक्वोरिटी एंड अलाइड सर्विसेज, साउथ एक्सटेंशन, पार्ट- II, नई दिल्ली; मैसर्स अल्फा सिक्वोरिटी एंड अलाइड सर्विसेज, मालवीय नगर, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री सुरेंद्र सिंह, द्वारा - कर्मकार एकता केंद्र (रजि.) गोविंदपुरी, कालकाजी, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1

नई दिल्ली पंचाट(संदर्भ संख्या 19/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42011/137/2020-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1527.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2020) of the **Central Government Industrial Tribunal cum Labour Court - I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director , National Building Construction Corporation Ltd. , IMC Maintenance Unit, Lodhi Road, New Delhi ; M/s Alfa Security and Allied Services, South Extension, Part-II, New Delhi ; M/s Alfa Security and Allied Services , Malviya Nagar, New Delhi , and Shri Surender Singh , Through- Karamkar Ekta Kendra (Regd.) Govindpuri, Kalkaji, New Delhi** , which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42011/137/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - I

ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.

Present : **Justice Vikas Kunvar Srivastava (Retd.)**
(Presiding officer)
CGIT, Delhi-1

ID No. 19/2020

Shri Surender Singh S/o Sh.Mohan Singh,
Rept. By Karamkar Ekta Kendra (Regd.)
A-704, Transit Camp. (Shaheed Rajiv Gandhi Colony)
Govindpuri, Kalkaji,
New Delhi – 110019.

Claimant...

Versus

1. The Director
National Building Construction Corporation Ltd.
IMC Maintenance Unit, Intergrated Office Complex,
Lodhi Road, New Delhi-110 023.
2. M/s Alfa Security and Allied Services
131, 1st Floor, Udai Park, South Extension,
Part-II, New Delhi-110 049.
3. M/s Alfa Security and Allied Services
K-3/D, Khirki Extension, Near Krishna Temple,
Malviya Nagar, New Delhi – 110017.

Managements...

None for the claimant

Shri Tushant, AR for the management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/137/2020-IR(DU) dated 04.01.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the termination of the services of the workman Sh.Surender Singh S/o Shri Mohan Singh (Security Guard) on 04.08.2017 by the Contractor M/s Alfa Security and Allied Services, in the establishment of NBCC, New Delhi as raised by Karamkar Ekta Kendra (Regd.) vide letter dated 23.04.2019 is proper, legal and justified ? If not, then whether the workman is entitled to reinstatement with all consequential benefits including full back wages ? What other relief, the said workman is entitled to ? What other directions, if any, are necessary in this matter ?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 05.06.2023

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1528.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स इंजीनियर्स इंडिया लिमिटेड, इंजीनियर्स इंडिया भवन, 1, भीकाजी कामा प्लेस, नई दिल्ली; मेसर्स जी4एस फैसिलिटी सर्विसेज प्रा. लिमिटेड, द्वारका, अतुल्य चौक, द्वारका, सेक्टर-13 के पास, द्वारका मेट्रो स्टेशन, नई दिल्ली, के प्रबंधन के संबंध में नियोजकों और श्री राजेंद्र सिंह पंवार, कामगार, द्वारा -दिल्ली दलित मजदूर विकास संगठन (पंजीकृत), नारायण, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट(संदर्भ संख्या 1/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42011/102/2021-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1528.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2022) of the **Central Government Industrial Tribunal cum Labour Court - I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s Engineers India Ltd., Engineers India Bhawan, 1, Bhikaji Cama Place, New Delhi ;M/s G4S Facility Services Pvt. Ltd., Dwarka, Atulaya Chowk, Dwarka, Near Sector-13, Dwarka Metro Station, New Delhi , and Shri Rajender Singh Panwar, Worker, Through-Delhi Dalit Mazdoor Vikas Sangathan(Regd.) ,Narayan, New Delhi ,which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42011/102/2021-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1
ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.

Present : Justice Vikas Kunvar Srivastava (Retd.)

(Presiding officer)

CGIT, Delhi-1

ID No.1/2022

Shri Rajender Singh Panwar,

Rept. By Delhi Dalit Mazdoor Vikas Sangathan(Regd.)

CB-6, Ring Road, Narayan,

New Delhi-110028.

Claimant...

Versus

1. M/s Engineers India Ltd.,
Engineers India Bhawan, 1,
Bhikaji Cama Place,
New Delhi-110 066.

2. M/s G4S Facility Services Pvt. Ltd.
Plot No.227, Block-A, First Floor, Sector-17,
Dwarka, Atulaya Chowk, Dwarka
Near Sector-13, Dwarka Metro Station,
New Delhi-110 075.

Managements...

None for the claimant

None for the management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. 42011/102/2021-IR(DU) dated 02.12.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the demand of Sh.Rajender Singh Panwar through Delhi Dalit Mazdoor Vikas Sangathan (Regd.) New Delhi vide letter dated 31.05.2020 for bonus for three years i.e. 2014-15, 2015-16, 2016-17 against the management of G4S Facility Services Pvt. Ltd./the Engineers India Ltd. Is proper, legal and justified ? If yes, what relief the disputant is entitled to and what directions, if any, are necessary in this regard?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 05.06.2023

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1529.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष, दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, मेट्रो भवन, फायर ब्रिगेड लेन, बाराखम्भा रोड, नई दिल्ली, कूप्स इंटरनेशनल हाई टेक सिक्स्योरिटी, डीएमआरसी मेट्रो भवन, फायर ब्रिगेड लेन के ठेकेदार, बाराखम्भा रोड, नई दिल्ली; सीसीईसीसी-केईसी जेवी डीसी-01, कार्यालय: मुंडका, रानी खेड़ा रोड के पास, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री गुलशन कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 45/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42025-07-2023-189-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1529.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2022) of the **Central Government Industrial Tribunal cum Labour Court - II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chairmen, Delhi Metro Rail Corporation Ltd., Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi, Couops International Hi Tech Security, Contractor of DMRC Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi ; CCECC-KEC JV DC-01, Office : Mundka, Near Rani Khara Road, Delhi, and Shri Gulshan Kumar, Worker**, which was received along with soft copy of the award by the Central Government on 19.09.2023

[No. L-42025-07-2023-189-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 45/2022

Date of Passing Award- 16th May, 2023

Between:

Shri Gulshan Kumar S/o Sh. Kartar Singh,
C/o-DSKA, Legal LLP, 34-LGF, Pragati Enclave,
Sant Nagar, North Delhi-110084.

Workman

Versus

1. The Chairmen,
Delhi Metro Rail Corporation Ltd.
Metro Bhawan, Fire Brigade Lane,

Barakhamba Road, New Delhi-110001.

2. Couops International Hi Tech Security,
Contractor of DMRC Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi.

3.CCECC-KEC JV DC-01,
Office : Mundka, Near Rani Khara Road, Delhi-110081.

Managements

Appearances:-

Sh. Arvind Kumar, Ld.A/R for the claimant (DLSA)

Shri Akhilesh , LWI, for DMRC.

Sh. Anil Sharma A/R alongwith advocate Sh. Shivam Tripathi, for the mgt no.3.

AWARD

The claimant has filed the application invoking the provision of 2A of the Id. Act alleging illegal termination of his service by the mgt no. 1 i.e DMRC with a prayer for reinstatement with continuity with service with full back wages and other consequential benefits including equal pay for equal work for retro respective effect.

The mgt DMRC by filing written statement challenged the maintainability of the proceeding and denying the employee and employer relationship. The mgt 3 i.e CCECC-KEC JV DC-01 filed written statement denying to have appointed the claimant at any point of time. The mgt no. 2 has been proceeded ex-parte. During the pendency of the proceeding a proposal for conciliation and an amicable settlement was given by the parties and pursuant to conciliation the claimant agreed to received Rs. 54,880/- from the mgt no. 3 towards his full and final settlement.

The claimant gave a statement to the effect that he has received the above said amount from the mgt no. 3 and thus, he has no dispute/claim against any of the mgt of this proceeding. Hence, this no dispute award is being passed. Hence ordered.

Order

The claim be and the same is disposed of as the claimant has no claim against the managements

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1530.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष, दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, मेट्रो भवन, फायर ब्रिगेड लेन, बाराखम्भा रोड, नई दिल्ली, कूप्स इंटरनेशनल हाई टेक सिक्योरिटी, डीएमआरसी मेट्रो भवन, फायर ब्रिगेड लेन के ठेकेदार, बाराखम्भा रोड, नई दिल्ली; सीसीईसीसी-केईसी जेवी डीसी-01, कार्यालय: मुंडका, रानी खेड़ा रोड के पास, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री शिकन्दर पासवान, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट(संदर्भ संख्या 48/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42025-07-2023-190-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1530.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/2022) of the **Central Government Industrial Tribunal cum Labour Court - II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chairmen, Delhi Metro Rail Corporation Ltd., Metro Bhawan, Fire Brigade Lane, Barakhamba Road,**

New Delhi, Couops International Hi Tech Security, Contractor of DMRC Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi ; CCECC-KEC JV DC-01, Office : Mundka, Near Rani Khera Road, Delhi, and Shri Shikander Paswan, Worker, which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42025-07-2023-190-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 48/2022

Date of Passing Award- 16th May, 2023

Between:

Shri Shikander Paswan S/o Sh. Vishnu Paswan,
C/o-DSKA, Legal LLP, 34-LGF, Pragati Enclave,
Sant Nagar, North Delhi-110084.

Workman

Versus

1. The Chairmen,
Delhi Metro Rail Corporation Ltd.
Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi-110001.
2. Couops International Hi Tech Security,
Contractor of DMRC Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi.
3. CCECC-KEC JV DC-01,
Office : Mundka, Near Rani Khera Road, Delhi-110081.

Managements

Appearances:-

Sh. Arvind Kumar, Ld.A/R for the claimant (DLSA)
Shri Akhilesh , L WI, for DMRC.
Sh. Anil Sharma A/R alongwith advocate Sh. Shivam Tripathi, for the mgt no.3.

AWARD

The claimant has filed the application invoking the provision of 2A of the Id. Act alleging illegal termination of his service by the mgt no. 1 i.e DMRC with a prayer for reinstatement with continuity with service with full back wages and other consequential benefits including equal pay for equal work for retro respective effect.

The mgt DMRC by filing written statement challenged the maintainability of the proceeding and denying the employee and employer relationship. The mgt 3 i.e CCECC-KEC JV DC-01 filed written statement denying to have appointed the claimant at any point of time. The mgt no. 2 has been proceeded ex-parte. During the pendency of the proceeding a proposal for conciliation and an amicable settlement was given by the parties and pursuant to conciliation the claimant agreed to received Rs. 50,058/- from the mgt no. 3 towards his full and final settlement.

The claimant gave a statement to the effect that he has received the above said amount from the mgt no. 3 and thus, he has no dispute/claim against any of the mgt of this proceeding. Hence, this no dispute award is being passed. Hence ordered.

Order

The claim be and the same is disposed of as the claimant has no claim against the managements

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1531.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अध्यक्ष, दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, मेट्रो भवन, फायर ब्रिगेड लेन, बाराखम्भा रोड, नई दिल्ली, कूप्स इंटरनेशनल हाई टेक सिक्स्योरिटी, डीएमआरसी मेट्रो भवन, फायर ब्रिगेड लेन के ठेकेदार, बाराखम्भा रोड, नई दिल्ली; सीसीईसीसी-केईसी जेवी डीसी-01, कार्यालय: मुंडका, रानी खेड़ा रोड के पास, दिल्ली, के प्रबंधन के संबंध में नियोजकों और श्री कमलेश कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 46/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19.09.2023 को प्राप्त हुआ था।

[सं. एल -42025-07-2023-191-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 19th September, 2023

S.O. 1531.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2022) of the **Central Government Industrial Tribunal cum Labour Court - II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chairmen, Delhi Metro Rail Corporation Ltd., Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi, Couops International Hi Tech Security, Contractor of DMRC Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi ; CCECC-KEC JV DC-01, Office : Mundka, Near Rani Khara Road, Delhi, and Shri Kamlesh Kumar, Worker**, which was received along with soft copy of the award by the Central Government on 19.09.2023.

[No. L-42025-07-2023-191-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 46/2022

Date of Passing Award- 16th May, 2023

Between:

Sh. Kamlesh Kumar, S/o Sh. Gori, Shankar,
R/o A-63, Bhagat Singh Part, Siraspur,
North Delhi-110084.

Workman

Versus

1. The Chairmen,
Delhi Metro Rail Corporation Ltd.
Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi-110001.
2. Couops International Hi Tech Security,
Contractor of DMRC Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delh.
3. CCECC-KEC JV DC-01,
Office : Mundka, Near Rani Khara Road, Delhi-110081.

Managements**Appearances:-**

- Sh. Arvind Kumar, Ld.A/R for the claimant (DLSA)
Shri Akhilesh , LWI, for DMRC.
Sh. Anil Sharma A/R alongwith advocate Sh. Shivam Tripathi, for the mgt no.3.

AWARD

The claimant has filed the application invoking the provision of 2A of the Id. Act alleging illegal termination of his service by the mgt no. 1 i.e DMRC with a prayer for reinstatement with continuity with service with full back wages and other consequential benefits including equal pay for equal work for retro respective effect.

The mgt DMRC by filing written statement challenged the maintainability of the proceeding and denying the employee and employer relationship. The mgt 3 i.e CCECC-KEC JV DC-01 filed written statement denying to have appointed the claimant at any point of time. The mgt no. 2 has been proceeded ex-parte. During the pendency of the proceeding a proposal for conciliation and an amicable settlement was given by the parties and pursuant to conciliation the claimant agreed to received Rs. 54,096/- from the mgt no. 3 towards his full and final settlement.

The claimant gave a statement to the effect that he has received the above said amount from the mgt no. 3 and thus, he has no dispute/claim against any of the mgt of this proceeding. Hence, this no dispute award is being passed. Hence ordered.

Order

The claim be and the same is disposed of as the claimant has no claim against the managements

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1532.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (35/2014) प्रकाशित करती है।

[सं. एल-12012/-14-2014-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1532.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 35/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workmen.

[No. L-12012/14/2014-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO.35 OF 2014

Parties: Employers in relation to the management of

Union Bank of India

AND

It's Workman

Appearance:

On behalf of the Management: Absent

On behalf of the Workman: Absent

Dated: 20th July, 2023

AWARD

Today too the workman Sri Raju Sikdar fails to appear and files show cause.

None appears from the side of the management of Union Bank of India when the matter is called.

Therefore, in view of provisions of Rule 22 of the Industrial Dispute (Central) Rules, 1957, this Tribunal decided to dispose of the present reference on the basis of the materials on record.

By order No. LO-12012/14/2014-IR (B –II) dated 02-04-2014 the Central Govt., Ministry of Labour in exercise of the power conferred under section 10(1) (d) and (2A) of the Industrial Dispute Act, 1947 referred the following dispute to this Tribunal for adjudication:-

“Whether the action of the management of Union Bank of India by terminating the service of workman Sri Raju Sikdar without following statutory rules and regulations is justified or not? What relief the workman is entitled for?”

The record shows initially both the workman and management had put their appearance and filed their respective pleadings, but latter both have stopped pursuing the dispute.

However, the workman in its written statement of claim has stated that the bank was in urgent need of one Peon at its branch office at Jahannagar Branch, District- Burdwan. The workman was an unemployed local youth and as such he applied for the said post.

That after selection process he was appointed by the Branch Manager, Union Bank of India, Jahannagar Branch sometime in the year 2000. That he was appointed in a temporary post with the specific assurance that in due course he would be made a permanent staff. On such assurance he used to perform the duty of a Peon/Group-D with utmost sincerity and honesty. He rendered continuous service without any break to the full satisfaction of the employer.

The workman was enrolled in the Employment Exchange and as such the Branch Manager, Jahannagar Branchy issued a certificate on 14-08-2001 confirming his service to the bank along with his experience, to the Employment Exchange.

That he was paid wages by the bank some time by vouchers and sometimes by bearer cheques. All on a sudden his job was terminated w.e.f. 01-03-2012.

Challenging such illegal termination he made a complaint before the Assistant Labour Commissioner (Central), Kolkata. The conciliation having failed, Ministry of Labour referred the present dispute. Therefore, he has prayed for his reinstatement, absorption, regularisation in the post of Group-D and for any other relief to which he is entitled to.

The bank in its written statement has alleged that the present reference is not maintainable as there exists no relationship of employer and employee between the bank and the alleged workman Sri Raju Sikdar.

The bank is a nationalised bank and it is governed by its own recruitment policy. In order to fill up vacancy against a sanctioned Group-D post, it has to notify the vacancy and give indent to the Employment Exchange. The post is filled up through selection process.

The Branch Manager is not a competent authority or an authorised person to make any recruitment in the cadre of Group-D, but he enjoys certain discretionary power to engage certain persons on casual and temporary basis. The concerned workman was casually engaged by the Branch Manager to do the casual nature of works. That he was never selected through selection process to work in the post of temporary or casual Group-D. Thus it has prayed for dismissal of the reference.

Unfortunately, the alleged workman has failed to substantiate and prove his claim and case by adducing oral evidence and producing documentary evidence. In fact in the record apart from pleadings of the parties of both sides there is no substantial evidence to corroborate their respective contentions. From the averments made in the claim statement of the workman it appears that he used to work in the Union Bank of India, Jahannagar Branch as a temporary/casual workman since 2000 till 2012. Therefore, he has prayed for his regularisation and reinstatement in the same job.

The Union Bank of India being a nationalised bank it is governed by recruitment rules and regulations. That in order to fill up a sanctioned post it has to follow the procedure laid down in the recruitment rules and regulations to which it is governed. Normally, it has to notify the vacancy arising out of the sanction posts through paper publication or call for eligible candidates through Employment Exchange. Then those candidates whose applications have been accepted have to go through selection process such as written examination, interview and physical fitness test.

Therefore a casual workman or temporary workman engaged by bank too has to go through the above mentioned procedure in order to get recruitment to the sanctioned post of Group-D and provided he possesses the requisite educational qualification and the age.

The Hon'ble Supreme Court in the Secretary, State of Karnata –vs- Uma Devi & Ors. held Public employment in a sovereign socialist secular democratic republic, has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark, and the Constitution has provided also for affirmative action to ensure that unequals are not treated equals. Thus, any public employment has to be in terms of the constitutional scheme. A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. But, a regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule. That regularisation cannot be mode of recruitment.

In view of the above principle laid down by the Hon'ble Supreme Court in Uma Devi (supra), the present reference case filed by the temporary casual workman of a bank cannot be entertained and not maintainable.

Therefore, this Tribunal holds that Sri Raju Sikdar being a temporary casual workman engaged by the Branch Manager, Union Bank of India, Jahannagar Branch cannot be considered to be an employee of the bank and as such the question of his termination also does not arise.

That apart no evidence have come on record to show that he worked for more than 240 days in a calendar year in the bank.

Therefore, the workman Sri Raju Sikdar is not entitled to get any relief as sought.

The Reference Case No. 35 of 2014 is disposed of and award to that effect is passed.

K. D. BHUTIA, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1533.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हल्दिया डॉक कॉम्प्लेक्स के प्रबंधन, संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (21/2008) प्रकाशित करती है।

[सं. एल-32011/4/-2008-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.21/2008) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Haldia Dock Complex and their workmen.

[No. L-32011/4/2008-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 21 OF 2008

Parties : Employer in relation to the management of

Haldia Dock Complex

AND

It's Workman/Union

Appearance:

On behalf of Haldia Dock Complex: Mr. J.Barik, Advocate.

On behalf of the Union/Workman: Mr. L. C. Halder, Advocate.

Dated: 10th July, 2023.

AWARD

By Order No L-32011/4/2008 (IR)(B-II) dated 05-09-2008, the Central Government, Ministry of Labour in exercise of the power conferred under sub section 1(d) and sub section 2(A) of section 10 of the Industrial Dispute Act, 1947 has referred the following dispute for adjudication by this Tribunal: –

“Whether the action of the Management of the Haldia Dock Complex in not promoting Mr. Mahadeb Rana, USL (PD) of M.O. Division to the next higher post of Lascar or Linesman is justified? What relief the concerned workman is entitled to?”

The facts giving rise to this reference in gist is that the workman Sri Mahadeb Rana, was appointed as a Gangman (unskilled labour) under INCF Division of Haldia Dock Complex on 03-12-1992. Finding no promotional opportunity in INCF Division, the workman applied for the post of Unskilled Labour at Port Diving Unit and he joined such post. Though being an unskilled labour at Port Diving Unit, the workman was made to work as a Lascar, the post of which was lying vacant. He was also asked to work as Linesman in place of deceased Pinaki Mohan Panda in the year 2003 in addition to his own duty.

That the workman having all the qualification of a Lascar he was not given the promotional post, rather the management illegally appointed one contractor's workman as Linesman in September, 2005 by depriving the promotional opportunity to the existing qualified workmen. The promotion of the concerned workman to the post of Lascar was due on 16-03-2003 after completion of three years as unskilled labour (P.D.). By engaging a contractor employee in the post of Lascar, the management had taken a plea the concerned workman was given financial benefits by granting Assured Career Progression (A.C.P.).

That in view of clause 31 of the wage settlement dated 2nd August, 2000 the workman belonging to Class –III and Class-IV of Haldia Dock Complex are entitled to A.C.P. as per provision of the scheme therein.

The ACP was made operational from 9th August, 1999 to grant two financial up gradation to Group B, C and D employees on completion of 12 years and 24 years of regular service respectively. The ACP scheme is not applicable to Group-A Central Services (Technical/Non-Technical) staff. That Casual employees (including temporary on adhoc and contract employees are not eligible for benefits of ACP. However, the scheme will not affect the normal promotional avenues available to the employees on the basis of the scheme. Therefore, the workman has prayed for promotion to the post of Lascar or Linesman from the date to which he has become eligible.

The management in its written statement has alleged the reference is not maintainable as same is suffers from infirmities. The workman cannot claim promotion as a matter of right. The promotion of a workman depends upon the availability of vacancy, requirement and subject to suitability and eligibility. The requirement, seniority and promotion of the employees of Haldia Dock Complex are governed by provisions as contained in Calcutta Port Trust Employees' (Haldia Dock Complex) (Recruitment, Seniority and Promotion) Regulations, 1985. That as per regulation the post of Lascar is filled up from the post of unskilled labour of Port Diving Unit and the post of Linesman is to be filled up from the post of Lascar. The Unskilled Labour under Port Diving Unit can also opt for career progression to the post of Marine Hand Gr.II, Bhandary, Greaser and Cook-cum-Boy as per Recruitment Rules. The concerned workman had no requisite experience necessary for promotion to the post of Lascar, but when he acquired requisite experience at that time the post of Lascar was already abolished for same being remained vacant for more than one year.

The job of Linesman is to monitor the life line as well as attending the diver as per requirement and also for constant vigilance on the air panel, compressor operator. The job of Dress Diver is overall supervision of the diving operation.

The concerned workman, an unskilled labour under Port Diving Unit of M.O. Division of Haldia Dock Complex has not been deployed on the official capacity for the job of Linesman being unskilled labour of Port Diving Unit. That Sri Patra senior to Sri Rana was a Linesman and he has no relation with the present case.

If no departmental candidate is available in that event the post can be filled up from the outside candidate. That Sri Rana had no requisite qualification at the material point of time for the post of Lascar and as such his application was not considered.

The concerned workman has already been given financial benefit by giving him benefits of A.C.P. Therefore, it has prayed for rejection of the appeal.

The concerned workman to prove his claim has examined himself as W.W. No. 1. He has also examined Sri Ashok Kumar Manna, Secretary of his union as W.W. No. 2. That Union/workman has produced 11 (eleven) documents which have been marked as Exhibit-W/1 to W/11.

On the other hand the management of Haldia Dock Complex examined one Sri Falguni Mondal as M.W. No.1 and its Sr. Deputy Manager (Personal and Industrial Relation Division) as M.W. No.2. That 5 (five) documents have been produced by the management which have been marked as Exhibit-M/1 to Exhibit- M/5 and of them are irrelevant as those are notifications with regard to promotion of employees who belong to selection posts, Doctors, administrative posts and managerial posts.

After going through the documents that have been produced by the parties and the oral evidence of witnesses, admittedly Sri Mahadeb Rana joined Haldia Dock Complex as an unskilled workman in the capacity of Gangman on 03-12-1992 under the I&CF Division. Later he for career progression opted as an unskilled labour in Port Diving Unit of Marine Operation Division in Haldia Dock Complex on 16-03-2000. In the said division there was a scope of promotion of an unskilled labourer to the post of Lascar and thereafter to the post of Linesman.

It is also an admitted fact for the purpose of promotion of an unskilled labourer in Port Diving Unit to a higher post one has to complete a period of three years of service in the said post and on acquiring requisite experience an unskilled labourer is promoted to the post of Lascar.

The workman in his evidence in cross admitted that he joined Port Diving Unit on 16-03-2000. Therefore, in view of the above admitted facts with regard to promotion to the next higher post, he becomes eligible for promotion on completion of three years in the said feeder post.

M.W. No.1 and M.W. No.2 have stated that when the post of Lascar fell vacant at that time the concerned workman had no requisite experience for promotion but when he acquired the qualifications and experience the post of Lascar was already abolished in view of Central Government, Ministry of Shipping letter No.PR-12016/18/2000-PE-1 dated 19-11-2001 (Exhibit-M/2). There was an order that all posts lying vacant for more than a year to be treated as abolished as per the instructions of the Ministry of Finance and a detail report of all posts lying vacant for more than one year along with a certificate those posts have already been abolished was called for by the Ministry.

Exhibit-M/3 shows that an unskilled labourer of Port Diving Unit having a minimum of three years of experience in that post and who is able to carry out all types of unskilled jobs including handling diving goods and to assist divers in diving job on shore and afloat shall be eligible for promotion to the post of Lascar.

Therefore, it becomes clear the concerned workman was eligible for promotion to the post of Lascar only after 16-03-2003. However, the workman in his cross examination admitted that promotional post of Lascar was already abolished in the year 2002 and as such he was given higher scale under ACP scheme. Thus, it appears when the workman was eligible for the post of Lascar on 16-03-2003 at that time the post of Lascar was already abolished in view of the direction of the Govt. as given in Exhibit-M/2.

Further, Exhibit-M/5 dated 19-09-2005 shows that the concerned workman had executed an undertaking for grant of benefit of ACP Scheme and he had undertaken that he would continue to discharge the duties and responsibilities of the lower post till subsequent regular promotion, if any, to the higher post. That his acceptance of the benefit under ACP scheme shall be deemed to be his unqualified acceptance for regular promotion, if any, on occurrence of vacancy subsequently.

M.W. No. 1 in his evidence has stated that abolished post are revived some times but without going through the official record he is unable to say whether the post of Lascar has been revived or not. He has also stated the concerned workman being an unskilled labour had opportunity to be promoted to some other posts apart from Lascar and Linesman and which he did not avail.

W.W. No.2 Sri Ashok Kumar Manna, Secretary of the Union, in his cross examination admitted that concerned workman was given benefit of ACP and modified ACP scheme. He has further admitted promotion depends on the vacancy and also on requirement. A person working as an unskilled labour can apply for promotion to the post of Cook, Bhandary and Marine Hand Grade-II, but has to appear in examination. The concerned workman applied for the above promotional post and he was also selected. He has also stated Linesman is the post higher than Lascar. Sri Rabindranath Patra was promoted to the post of Linesman. The management started appointing Linesman on contractual basis. The concerned workman Sri Mahadeb Rana had no experience of diving. Such evidence of the Secretary of the Union too does not support the case of the concerned workman.

From the above discussion it appears, the concerned workman became eligible for promotion to the post of Lascar in the year 2003 after completion of three years' service as an unskilled labour in Port Diving Unit, but the post of Lascar was already abolished in the year 2002. That concerned workman was given benefit of ACP for not being promoted in time to the next higher level. It has also come on record, the concerned workman had qualified to the higher post of Cook, Bhandary and Marine Hand Grade-II but he did not join those post and for which he was given second ACP benefit also. It is also seen an employee Mr. Patra, senior to the concerned workman was already posted as a Linesman on the death of Pinaki Mohan Panda in the year 2003. Thus, the demand of promotion to the next higher post of Lascar and Linesman by Sri Mahadeb Rana, the workman is not justified. No illegality being committed by the management of Haldia Dock Complex in not promoting Sri Mahadeb Rana to the post of Lascar, which was already abolished when the concerned workman had acquired requisite qualification. There is no merit in the reference. Accordingly, Reference No.21 of 2008 is dismissed and award is passed.

K. D. BHUTIA, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1534.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (06/2019) प्रकाशित करती है।

[सं. एल-39025/01/2023-आईआर(बी-II)-23]

सलोनी, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[F. No. L-39025/01/2023-IR (B-II)-23]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

CGIT-06 OF 2019

Shri Suresh Kumar Gupta Applicant/Employee

Versus

Central Bank of India

... Opp. Parties

Appearance :
On behalf of the Appellant : Mr. Suvadip Bhattacharjee Advocate
On behalf of Opp.Party : Absent

Date: 25th July, 2023.

AWARD

This is an application under 2A (2) of the Industrial Dispute Act, 1947 filed by Sri Suresh Kumar Gupta against Central Bank of India, challenging his illegal termination from the work of a Driver, for his reinstatement with full back wages.

It is the case of the workman that he was engaged by the Central Bank of India to drive its official vehicle since 2003. That he sincerely and diligently discharged his duty without any break till his termination from the month of April, 2017. That he was not given any appointment letter by the bank. The payment was made to him regularly showing him as a personal driver of the Branch Manager. That he was paid travelling expenses, uniform allowance etc. by the bank. That he made several prayers before the management of the bank for his regularisation and absorption in the permanent post, but such prayers were never heard by the management. That his service was terminated w.e.f. April, 2017 without following the due process of law. Hence, this case.

The record shows the management of the bank has failed to put appearance despite due service of notice upon it. Therefore, management of the bank has been proceeded ex parte.

The workman to prove his case and claim has examined himself as W.W. No.1. The documents produced by him have been marked as Exhibit W/1 to W/15.

It is the case of the workman that he was a Driver of the vehicle owned by Central Bank of India and having put continuous service of more than 14 years, he should be considered an employee of bank and his service cannot be terminated without following due process of law.

Perused the Exhibit-W/14, the Log Book of staff car of Central Bank of India and prima facie it is seen that there was a vehicle numbered WB-02K-4269 and WB-02AA-6204 and those two vehicles used to driven by Sri Suresh Kumar Gupta for the period from 13-07-2009 to 09-02-2010 and from 11-07-2012 to 27-08-2012 and from 16-01-2016 to 01-07-2016. The Exhibit-W/14 also contains entries from 10-02-2010 to 15-12-2011, but there is no mention of the number of the vehicle to which those entries relate. Further, signatures of the Driver appearing against those entries do not appear to be that of Sri Suresh Kumar Gupta.

It is very interesting to note the concerned workman has failed to produce Registration Certificates of those two vehicles mentioned in the Log Book to prove those two vehicles were /are owned by the bank and used as a staff car or for the use of the officials of the bank. Therefore, Log Book ipso-facto does not prove the vehicles mentioned therein are/were owned by the bank.

Now a days it is seen the Govt. offices, banks and other institutions/ establishments using hired vehicles for its official use and purpose. The driver of the hired vehicle is provided by the actual owner of the vehicle and it is not the responsibility of the offices, banks etc. to engage a driver for hired vehicle or vehicle used on rental basis. In the absence of Registration Certificates of those two vehicles this Tribunal is unable to accept the contention of the workman that he was engaged by the bank to drive the above mentioned two vehicles.

Further, it is mandatory for the banks or the Govt. offices who uses hired vehicles for official purposes to maintain Log Book for the purpose of preparation of bills towards daily hire charge and for payment towards fuel or for issuance of fuel slips if the Govt. offices and banks have contract to supply fuel to the hired vehicles. The Log Book need to be signed by the concerned staff or by the officer using the same. Therefore, this Tribunal is of view, Log Book is not sufficient to prove the concerned workman was engaged by bank to drive its vehicles.

Exhibit –W/8, W/9 and W/10 being certificates issued by the authorities of the bank though not proved by the author of those certificates show that Sri Suresh Kumar Gupta used to drive the vehicle provided to them as their personal driver. They nowhere stated that Sri Suresh Kumar Gupta used to drive the vehicles owned by bank for the use of its Managers. So, an inference can be drawn Sri Suresh Kumar Gupta was a driver of a vehicle hired for the use of the Managers of the bank.

Exhibit-W/4 (collectively) are the cash vouchers, petty cash slips of the years 2011, 2012 and 2013 which show that Sri Suresh Kumar Gupta used to work some time as a Driver of Recovery Department, driver of Mr. Debnath, Assistant General Manager, Driver of vehicle no. WB-02K-4269 of Recovery Deptt.

But petty cash slips of the year 2013 show Sri Suresh Kumar Gupta was paid a sum of money ranging from Rs.10/- to Rs.140/- for doing different kind of jobs at Central Bank of India, Barabazar Branch, such as sweeping job,

for parking car, delivery of letters, extra works at Staff Deptt. in the absence of regular staff Sri Suprabh Nabu etc. That pay slip shows that Sri Suresh Kumar Gupta was basically engaged to do sundry jobs in the year 2013.

No doubt the cash vouchers show that he was paid Rs.1,000/- on 05-12-2011 towards the charge of the fuel of Car No. WB-02K-4269. That he was paid Rs.700/- towards late hours duty in the month of July, 2009 and for car washing allowance. He was paid Rs.110/- towards the change of Clutch Wire with fitting charge of the vehicle No. WB-02K 4269 on 02-11-2011 and such payment was made to him by Central Bank of India, Zonal Office.

Exhibit-W/4(collectively) prima facie show that he used to do sundry jobs of Barabazar Branch of Central Bank of India in the year 2013 and in the year 2009 to 2011 he used to drive the vehicle of Recovery Deptt. of Central Bank of India, Zonal Office. Exhibit-W/4 (collectively) prima facie prove that the alleged workman used to do casual nature of works as and when his service was required by the bank.

Non-production of Log Book by the workman for the year 2013 and he being engaged to do sundry job in Barabazar Branch in the year 2013, give rise to an inference that when he was not engaged as a driver of hired vehicles of the bank, then he was engaged by the bank to do the sundry work at its Barabazar Branch.

That Sri Suresh Kumar Gupta being a driver of a hired vehicle or of a rented vehicle of the bank, question of his retrenchment or termination of his service by the bank does not arise.

That apart the bank being a nationalised bank it is governed by the recruitment rules and regulations and it cannot give appointment against a sanctioned vacant post without following the recruitment rules. Sri Suresh Kumar Gupta has failed to prove that in the bank there was a sanctioned post of Driver and which was lying vacant at the relevant period of time. That in place of such vacancy his service was availed by the bank as a driver. That no person can claim regularisation or absorption in a permanent service of a bank merely doing a casual nature of work.

It is not the case of the workman that he used to do some other works for the bank as reflected from Exhibit-W/4, but those documents do not prove that he worked for more than 240 days in a calendar year as a daily rated casual worker. Rather, it is his case that he all along since 2003 worked as a Driver in the official vehicle of the bank and which he has failed to prove.

Having regards to the aforesaid discussion this Tribunal holds the concerned alleged workman failed to prove that he was engaged by Central Bank of India as a casual driver to drive the vehicles owned by them.

Therefore, the alleged concerned workman is not entitled regularisation or absorption in the permanent post in bank. Further he being a driver of a hired vehicle of the bank, the bank has no authority to terminate his service or to comply provision of section 25 of Industrial Dispute Act.

Thus, CGIT-06 of 2019 is dismissed and award is passed accordingly.

K.D. BHUTIA, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1535.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (07/2008) प्रकाशित करती है।

[सं. एल-12011/129/2007-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1535.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07/2008) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[F. No. L-12011/129/2007-IR (B-II)]

SALONI, Dy. Director

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 07 OF 2008

Parties : Employers in relation to the management of

Central Bank of India.

AND

It's Workman

Appearance:

On behalf of Central Bank of India: Mr. Biswambhar Jha, Advocate.

On behalf of the Workman: Mr. Dilip Chatterjee, Secretary of the
Union.

Dated: 12th July, 2023

AWARD

By Order No L-12011/129/2007 (IR)(B-II) dated 07-03-2008, the Central Government, Ministry of Labour in exercise of the power conferred under sub section 10 (1) (d) and 2(A) of the Industrial Dispute Act, 1947 has referred the following dispute for adjudication by this Tribunal: –

“Whether the action of punishment of bringing down the lower stage in the scale of pay by two stages imposed on Sri Milan Kumar Mondal by the Regional Manager and Disciplinary Authority, Central Bank of India, Regional Office (South), Calcutta vide order No. 28-10-2006 is justified? If not, to what relief the concerned workman is entitled to?”

The facts giving rise to the present case in gist are that the concerned workman while he was posted at Mominpur Branch as a Clerk during the period from 03-03-2002 to 29-08-2005, it was found that he had committed misconduct in violation of Clauses 5(a), 5(e), 5(j) and 5(l) of bipartite settlement dated 10-04-2002 i.e. for engaging in any trade or business outside the scope of duties except with prior permission; willful insubordination or disobedience of any lawful and reasonable order; doing any act prejudicial to the interest of the bank and abatement or instigation of any of the act mentioned above. Therefore he was charge sheeted for such misconduct on 27-03-2006.

The primary allegation against him was that while he was posted at Mominpur Branch he had favoured M/s. Zen Net Vision Pvt. Ltd. of which his wife Smt. Reba Mondal was one of the directors or that he was engaged by said M/s. Zen Net Vision Pvt. Ltd. to operate its accounts as transpired by using cheque Nos. 24514 to 24550 of his personal Overdraft A/c. No.12371 as cheque of M/s. Zen Net Vision Pvt. Ltd.'s C.D. A/c. No.11652. Opening several accounts in the joint names of his family members and making deposit disproportionate to his known source of income as a bank clerk or by withdrawing cash from the account of the said company by getting the account payee cheque cancelled by his wife alone instead by two directors as per the documents filed by the company in the Bank.

The management being not being satisfied with the reply submitted by the concerned workman initiated a domestic enquiry against him appointing Mr. N.N. Roy, Branch Manager, New Alipur Road as Enquiry Officer and Sri P.K. Ekka, Assistant Manager, Barisha Branch as Presenting Officer.

The workman was allowed to engage Sri Abani Kumar Banerjee, one of the employees of the bank and as well the Secretary of the Union as his representative in the domestic enquiry.

The management has examined Sri Dibakar Das, Assistant Manager, as M.W. No.1, Sri Jahar Prasad Dey, Dy. Manager of Mominpur Branch as M.W. No.2 and Sri Ranjan Kumar Moitra, Assistant Manager, Ballygunge Branch as M.W. No.3. Several documents relating to different bank accounts of M/s. Zen Net Vision Pvt. Ltd., cheques issued in favour of the concerned workman by the bank against his O.D. A/c. No. 12371 which was used by him as cheques of M/s. Zen Net Vision Pvt. Ltd.'s C.D. A/c. No. 11652 and other related bank papers were produced. The representative of the workman was allowed to cross examine the management witnesses.

No evidence in defense has been adduced by the concerned workman.

That Enquiry Officer after taking into consideration both the oral and documentary evidence that have been adduced from the side of the management held the concerned workman guilty to the charge and submitted his report and copy of which was duly served to the concerned workman.

The Disciplinary authority after considering the representation of the workman concurred and upheld the findings of the Enquiry Officer and thereby proposed to impose the punishment by bringing down the scale of pay by two stages. The concerned workman against such order of punishment, preferred an appeal before the appellate authority but his appeal was rejected by the appellate authority. Therefore, he has raised an industrial dispute before the concerned authority. Hence the present reference.

It has been alleged by the workman the enquiry report is perverse. No substantive evidence could be produced by the presenting officer against the charges brought against him, but the enquiry officer ignored the fact that he had acted honestly for the benefit of the bank, ignored the failure on the part of the presenting officer to produce documents to prove his engagement by M/s Zen Net Vision Pvt. Ltd., appreciate the entire evidence of management witnesses properly and ignored the fact that due to alleged misconduct of the workman no financial loss was suffered by the bank and have come to the wrong findings on the basis of surmise and conjecture.

That management has failed to prove his signature and handwriting on the disputed documents of the said company. He had encashed account payee bearer cheques of the company though same may be cancelled by one of the Directors (his wife) of the company but due to his such act no financial loss has been caused to the bank or no case of fraud was registered by the concerned authority of the bank against him. The management in order to save the cashier has made this workman as an escape goat.

He has further alleged the amount deposited in MMDC account was transferred transaction from one of his family members and such money did not belong to him. Therefore, he has prayed for setting aside the punishment, to pay back monetary losses suffered by him for bringing down his pay scale by two stages and disciplinary action against the Disciplinary Authority for misusing his power.

The bank in its written statement has categorically stated the departmental enquiry was properly held against the workman and who fully participated in the proceeding with the help of a defence representative of his choice and who had cross examined the witnesses produced by the management. That departmental enquiry was held fairly by following the principle of natural justice. The Enquiry Officer has rightly held the concerned workman guilty to the charge. Therefore, it has alleged that there is no merit in the present reference and prayed for dismissal of the same.

The workman in order to prove the report of enquiry is perverse has examined himself as W.W. No.1. That he has produced sixteen documents which have been marked as Exhibit W-1 to W.16.

The management has examined Sri Nityananda Roy, Enquiry Officer and Sri Prafull Kumar Ekka, Presenting Officer as M.W. No.1 and M.W. No.2 to prove proper enquirer was held against the workman and report is proper and correct.

The concerned workman in his statement of claim as well as in his evidence has challenged the finding of the Enquiry Officer and the decision taken by the disciplinary authority to punish him by reducing his pay scale by two stages. He has nowhere challenged the validity of the domestic enquiry.

That apart the Exhibit-W/1 to W/16 the records of the domestic enquiry or departmental proceeding prima facie proves adherence of the principal of natural justice by the management while conducting the enquiry against the charge brought against the concerned workman.

It is settled law when a proper enquiry has been held by an employer and the finding of misconduct is plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body.

From the evidence of management witnesses examined during domestic enquiry and as well as from the evidence of Enquiry Officer and Presenting Officer recorded by the Tribunal prove that concerned workman while he was posted at Mominpur Branch had an O.D. A/c. No.12371. It has also come that cheque No.24514 to 24550 of the said personal account of the concerned workman was used by him for doing transactions in connection with C.D. A/c. No.11652 of M/s. Zen Net Vision Pvt. Ltd., a company in which his wife was one of the Directors and he appears to had made entry in the Ledger Folio. Further, he in his claim statement has admitted that he had withdrawn cash through A/c. Payee Cheques of M/s.Zen Net Vision Pvt. Ltd. which were cancelled only by his wife, one of the Directors of M/s. Zen Net Vision Pvt. Ltd. instead of any two Directors of the company as required to authenticate any material alterations in the A/c. payee cheques. The concerned workman has also admitted that while he was posted in Mominpur Branch he had opened several accounts jointly with his family members but stated funds in those accounts were transferred by his family members and that money did not belong to him. But he has failed to mention the source of income of his family members to transfer money in the joint account beyond the known source of salary income of the workman. Such facts prima facie prove misconduct on the part of the concerned workman and he could indulged in the above mentioned misconduct just because he was a clerical staff of the branch at the relevant time.

However, the Presenting Officer in his evidence before this Tribunal admitted that he could not produce any documents to show concerned workman was employed by M/s. Zen Net Vision Pvt. Ltd.

The Hon'ble Supreme Court of India, in *Institute of Chartered Financial Analysts of India & others Vs. Council of Institute of Chartered Accountants of India & others*, AIR 2007 SC 2091, has been defined and interpreted the expression "misconduct" means breach of discipline, all though it would not be possible to lay down exhaustively as to what would constitute conduct and indiscipline, which, however, wide enough to include wrongful omission or commission whether done or omitted to be done intentionally or unintentionally. It means "improper behaviour, intentional wrong doing on deliberate violation of a rule of standard or behaviour". Misconduct is a transgression of some established and definite rule of action, where no discretion is left except what necessity may demand, it is a violation of definite law or a forbidden act. It differs from carelessness. Misconduct, even if it is an offence under the Indian Penal Code, is equally misconduct.

Further, in the case of *State of Punjab & others Vs. Ram Singh, Ex-Constable*, AIR 1992 SC 2188 (Three-Judge Bench) and the Hon'ble Allahabad High Court in *Rinku alias Hakku Vs. State of UP*, 2000(2) AWC 1446 (Allahabad High Court : Full Bench) have observed "the word 'misconduct' though not capable of precise definition, its reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behaviour, unlawful behaviour, willful in character, forbidden act, and a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty, the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve.

The activities of the concerned workman as discussed and mentioned above squarely falls within the ambit of misconduct as defined and interpreted by the Hon'ble Supreme Court in the above decisions. The workman has contended that his act of using his personal cheques for the account of third person, withdrawing cash against A/c. payee cheques of M/s. Zen Net Vision Pvt. Ltd. by getting the words "A/c. Payee" cancelled or pen through by his wife, one of the Directors of the said company and depositing money in the bank in the joint account of himself and his family member beyond his known source give rise to a presumption that he was indeed one of the anonymous Directors of the company and his wife was only a Director for the name sake as because he being a permanent employee of the bank cannot indulge himself in any trade or business.

It is very pertinent to mention here that workman in his written argument filed on 09-11-2019 in para 6 stated that the account of M/s. Zen Net Vision Pvt. Ltd. was opened under the supervision of Mr. Ranjan Mohan Moitra, the then Assistant Manager of Mominpur Branch and documents on record marked as W/1 to W/16 on 26-06-2012 clearly prove the said account of the company was opened six days before the incorporation of the said company and without essential documents needed for the opening of the account after being monetarily benefitted by the company every month to Mr. Ranjan Mohan Moitra, M.W. No.3 of departmental enquiry. That Mr. Moitra was paid Rs.12,556/-, Rs.7,030/-, Rs.5,871/- and Rs.4,418/- from cheques no. 651, 1853, 091465 and 092977 dated 07-03-2005, 12-04-2005, 10-05-2005 and 13-06-2005 respectively. Such disclosure by the concerned workman further give rise to a presumption of his involvement in opening of an illegal account of M/s. Zen Net Vision Pvt. Ltd. in which on paper his wife was /is one of the Directors. If he had not been an employee of the bank at the relevant time he would not have been able to open such illegal account by influencing his superior. Further, he is found guilty of indulging in malpractice in opening of an illegal account of the company owned by one of his family members or whose one of the Directors was his wife.

It has been submitted on behalf of the workman that alleged act of Sri Milan Kumar Mondal was not prejudicial to the interest of the bank as he has not caused any financial loss to the bank. But this Tribunal is of view causing no financial loss to the bank is not sufficient to absolve the workman from the guilt of misconduct described above and committed by him, while he was posted as a Clerk of Mominpur Branch. More so, the Hon'ble Apex Court in *Abinash Sadashiv Bhosle (D) through L.R.S. -vs- Union of India & Ors.*, 2012 AIR SCW 583 has held "it is settled proposition of law that the finding of Enquiry Officer cannot be nullified so long as there is some relevant evidence in support of the contentions required by the Enquiry Officer". Further, in *R.S. Saini -vs- State of Punjab & Ors.*, IT 1999 (6) SC 507 it has been held "if there is some evidence to reasonably support the conclusion of the Enquiring Authority, it is not the function of the Court to review the evidence and to arrive at its own independent finding. The Enquiring Authority is the sole judge of the fact so long as there is some legal evidence to substantiate the finding and the adequacy or reliability of the evidence is not a matter which can be permitted to be canvassed before the Court".

In view of the above discussions, this Tribunal does not find any illegality or perversity in the findings of the Enquiry Officer or the concerned workman being harassed or victimized by the management or unfair labour practice being adopted by the management against him.

Under the circumstances, this Tribunal holds the enquiry proceeding was conducted in consonance with the principle of natural justice and therefore, the enquiry is held to be legal, valid and proper.

Further, having regards to the nature of misconduct committed by the concerned workman and the charge having proved against him during departmental enquiry, the punishment imposed by the disciplinary authority by

reducing his scale of pay by two stages appears to be just and sufficient. This Tribunal does not find any need to interfere with the findings of the Enquiry Officer and punishment imposed by the disciplinary authority.

Therefore, the Reference No. 7 of 2008 is disposed of holding the action of the management just and proper and award is passed accordingly.

K. D. Bhutia, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1536.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (09/2021) प्रकाशित करती है।

[सं. एल-12011/14/2021-आईआर(बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1536.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 09/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of UCO Bank and their workmen.

[No. L-12011/14/2021-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer.

REF. NO. 09 OF 2021

Parties: Employers in relation to the management of

UCO Bank

AND

Their Workmen

Appearance:

On behalf of Management **UCO Bank** : Sri Sachetan Ghosh, Advocate

On behalf of the Workmen/ Union : None

Dated 17th May, 2023

AWARD

The Management of UCO Bank is found present through its Ld. Counsel, when the matter is called. Unfortunately, the Union which has espoused the dispute challenging the termination of Sri Sikandar Singh, Sri Nalini Pr. Behuria and Sri Amit Mondal, all Van drivers without following the provision of Sec.-25F of the I.D. Act has failed to appear and contest the case despite due service of notice upon it as per track report dated 17.01.2023.

Record shows that notice of Reference and appearance sent to it through Regd. Post on 27.07.2021, 15.09.2021 and 01.10.2022 have never returned undelivered. Therefore, it can be safely assumed that previous notices sent to it were duly served upon it, till this time through Speed Post and it is well aware of the pendency of this reference case raised by it.

Therefore, non-appearance and failure to file claim statement by union give rise to presumption the union is no more interested to pursue the dispute under reference “Whether the action of the Management of UCO Bank, Kolkata in terminating the services of Sri Sikandar Singh, Sri Nalini Pr. Behuria and Sri Amit Mondal, Mobile Van Drivers without following the statutory provisions u/s 25F of I.D. Act is justified? If not, what relief the concerned

workmen are entitled to?" as referred by the Govt. vide its Order No. L-12011/14/2021-IR(B-II) dated 11.05.2021 to this Tribunal for adjudication.

In view of the above, 'No Dispute Award' is passed.

Accordingly, Ref. Case No. 09 of 2021 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1537.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी डब्ल्यू एफ एस (बर्ड वर्ल्डवाइड फ्लाइट्स) सर्विसेज (इंडिया) प्राइवेट लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय नं. II, नई दिल्ली के पंचाट (आई डी नम्बर 78/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/09/2023 को प्राप्त हुआ था।

[सं. एल-20013/01/2023-आईआर(सीएम-I)]

मणिकंदन एन., उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1537.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID No. 78/2015**) of the **Central Government Industrial Tribunal-cum-Labour Court N0.II, New Delhi** as shown in the Annexure, in the industrial dispute between the Management of **BWFS (Bird Worldwide Flights) Services (India) Pvt.Ltd.** and their workmen, received by the Central Government on 12/09/2023.

[No. L-20013/01/2023-IR (CM-I)]

MANIKANDAN, N., Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour Court-I,
New Delhi.

INDUSTRIAL DISPUTE CASE NO. 78/2015

Date of Passing Award- 11th May, 2023

Between:

Shri Raj Singh
S/o SHri Sunehra Singh,
R/o V.&P.O Bambewa,
Tehsil Beri, Distt. Jhajjar, Haryana,

Workman

Versus

Management of BWFS (Bird Worldwide Flights)
Services (India) Pvt. Ltd.
Room No., 406, 4th Floor,
G+5 Building Terminal III, IGI
Airport, New Delhi

Also at: E-9, Cannaught House,
Cannaught Place, New Delhi.

Managements.

Appearances:-

Shri Vijay Pal, Ld. A/R for the Claimant.

Shri Kunal Mehta, Ld. A/R for the management

AWARD

This is an application filed u/s 2- A of the ID Act by the workman against the managements praying a direction to the managements to reinstate the workman into service with full back wages and all other consequential benefits.

As per the claim statement the claimant Raj Singh was appointed with the mgt in July 2009 as Operator II. In due course, he was promoted to the cadre of operator-III with effect from April 2014. Though promoted he was not imparted any training as operator III by the mgt. But juniors to him who too were promoted to the cadre of operator III were given training and asked to work in the post of Operator III. But the claimant for want of training, was asked to work as operator II despite his promotion. When the workman was rendering his service with utmost sincerity and dedication till 16.12.2014, surprisingly on 17.10.2014 when he reported for duty at the IGI Air Port as per his duty schedule, the mgt without assigning any reason refused to take him on duty. The workman requested time and again to allow him for performing duty. Though a pass for duty issued by the mgt was received by him on 19.01.2015, he was not allowed to perform duty. On 2/3 occasions when workman went to the office of the mgt with a request to allow him for performing duty, he was treated with the rude behavior of the mgt. On 2/3.01.2015, he received a registered letter from the mgt and on opening the same found the letter dated 29.11.2014 which was in the nature of a notice calling an explanation for his unauthorized absence, failing which necessary disciplinary action shall be taken against him. Though the date of the notice was 29.11.2014, in the content of the notice it was mentioned that he has absconded from duty with effect from 17.12.2014. The claimant gave reply to the said notice. Again on 10/11.01.2015 another notice was sent by registered post was received by the claimant wherein it was mentioned that it is with reference to the letter dated 29.11.2014. In the said notice he was directed again to report in HR office immediately failing which necessary disciplinary action shall be taken. This notice issued on 06.01.2015 was received by claimant on 10.01.2015. No disciplinary action has been initiated till date against the claimant but all his request to take him back to duty was turned down. His last drawn salary was Rs.19,276/- per month which was last paid up to 16.12.2014. After serving a long period with the mgt the claimant could not find any other employment and made repeated request for reinstatement into service. Finding no other efficacious remedy, he raised a dispute before the conciliation officer. For the non cooperation of the mgt conciliation failed and he was advised to approach this Tribunal directly by invoking the provision of section 2A of the ID Act. Hence, he has filed the present claim petition. In the claim petition the claimant had prayed for a direction to the mgt to reinstate him into service with back wages for the period 21.12.2014 to 20.01.2015 and till the reinstatement is made with all to other consequential benefits. Along with the claim petition the claimant filed the photo copy of the conciliation failure report, his appointment letter the show cause notice number 1 and 2 received from the mgt the ID cards issued by the mgt of this proceeding as well as DIAL, the Airport entry pass issued by the Bureau of Civil Aviation Security, the representation sent by the claimant to the HR head of the mgt etc.

Being noticed the mgt BWFS field written statement stating that the claimant Raj Singh was never terminated or dismissed from service by the mgt. Alleging that the claim is not an industrial dispute, the mgt has stated that the claimant was admittedly appointed as operator II in the year 2009. In April 2014 he was promoted to the post of Operator III and the agreed salary per annum was 1,35,528/-. As per the contract of employment, the employee, if would remain absent from duty unauthorizely or without reasonable explanation for more than 7 consecutive days, it will be presumed that he is no longer interested for working in the company. This claimant was on duty on 17.12.2014 at IGI Airport New Delhi. The job assigned to him by his immediate superior was not carried out as the workman refused to carry out the same. On that day that is 17.12.2014 he left his duty after refusing to carry out the order. From that day, that is 17.12.2014 he remained absent and on 29.12.2014 a notice was sent to him by registered post vide postal receipt dated 30.12.2014 in his permanent address available with the mgt. In the said notice he was directed to report duty immediately failing which suitable disciplinary action shall be taken against him. But the claimant failed to report for duty and as such another notice dated 06.01.2015 was sent to his permanent address and both the notices were duly served on the claimant. But the claimant did not obey the direction given in the notice. The mgt finding no other way sent a final notice dated 09.01.2015, in his permanent address and in the said notice the workman was clearly told that for his absconding from duty since 17.12.2014, it is believed that he has abandoned the service of the company. However, in the said notice he was again advised that in case he would fail to resume duty, he should return the property of the mgt including the Airport entry pass etc. and come forward to settle his accounts with the company. The notice dated 09.01.2015 was also delivered to the claimant. After receipt of the third notice dated 09.01.2015 the claimant came up with a false plea that the contents of the notice are incorrect and the notice dated 29.12.2014 is the only notice received by him. The workman since failed to resume duty after service of all the three notices the mgt found him guilty of committing the breach of clause

9.2 (d) of the contract of employment and he was treated to have abandoned the service of the mgt. However, at a good gesture, the mgt as another opportunity sent a letter dated 20.01.2015 by registered post asking the claimant to explain within 48 hours of the receipt of the letter as to why he absconded from duty with effect from 17.12.2014. But the workman failed to reply and continued to absent himself from duty. Thus the mgt has pleaded that the service of the claimant was never terminated nor he was dismissed, but it is a case of voluntary abandonment and the claimant is not entitled to the relief prayed for.

The claimant filed rejoinder to the W.S stating that he was always interested to work with the mgt but the mgt never treated him cordially and the allegation that he abandoned the service is al false. For reasons known to the mgt he was not allowed to perform duty from 17.12.2014. The mgt illegally terminated his service in gross violation of the provisions of ID Act and before such termination no domestic enquiry was conducted against him.

On these rival pleadings the following issues were framed.

Issues

1. Whether there exists employer and employee relationship between mgt and workman? If so its effect?
2. Whether this Industrial Dispute is maintainable or not? If so its effect?
3. To what relief the workman is entitled to and from which date?

The claimant examined himself as ww1 and proved the documents which were marked in a series ww1/1 to ww1/11. These documents include the conciliation failure report claimant's appointment letter containing the terms of employment contract a letter written by the mgt to the claimant appreciating his effort to subside the strike of the employees on 7th & 8th Feb 2013 the letter of promotion the notice number 1 and 2 the photo copies of the I Card and air port entry pass and the representation of the claimant requesting the mgt to take him on duty. Similarly, the mgt examined its DGM as MW1 who produced a number of documents. The documents include the four notices sent to the claimant, the internal e-mail received from the HR Department intimating about the absconding of the workman the letter of the claimant received by the mgt the postal receipt etc. Both the witnesses were cross examined at length by the adversaries.

At the outset of the argument the Ld. A/R for the mgt submitted that this is not an Industrial Dispute in terms of Section 2(k) of the ID Act, since no demand notice was served before raising the dispute. He also submitted that this is not a case of termination or dismissal from service as alleged by the claimant. The claimant had voluntarily abandoned the service of the mgt by remaining absent for a continuous period of 7 days or more which was a clause in the contract of employment. In that view of the matter it cannot be said that the provision of section 25-F was required to be complied, but not complied, making the termination of service illegal. The Ld. A/R for the workman while pointing out to the notices issued to the claimant by the mgt and the photo copies of the log book filed by him, submitted that the mgt had illegally refused to take him into service despite repeated request made by the claimant. The action of the mgt amounts to termination of service. He also pointed out that in this case the mgt has admitted about non compliance of the provisions of section 25-F of the ID Act and for the unfair labour practice meted to the claimant he is entitled to reinstatement into service with full back wages. He also pointed out that the claimant is unemployed since Dec 2014 and struggling with the litigation. Hence, a amount of litigation expenses be paid to him by the mgt.

Findings

All the issues

The mgt had challenged the maintainability of the proceeding on the ground that no demand notice was served by the claimant on the mgt. The amended claim petition was filed by the claimant of 06.09.2016. In this claim petition there is no mention about service of any demand notice on the mgt. But the facts pleaded by the parties shows that before approaching this Tribunal by invoking the provisions of Section 2A of the ID Act, he claimant had raised a dispute before the conciliation officer and during that conciliation proceeding ,the mgt had appeared and participated. The failure report of the conciliation proceeding has been placed on record by the claimant. As per this report the mgt had participated in the conciliation proceeding. Hence, it cannot be said that the mgt had no notice with regard to the claim of the claimant. Accordingly, it is held that the maintainability of the claim cannot be challenged on the ground that demand notice was not served on the mgt.

It is the specific stand taken by the claimant that he started working for the mgt in July 2009. He was promoted to the cadre Operator III in the month of April 2014. He had performed the duty as such till 16.12.2014. But suddenly on 17.12.2014 mgt refused to take him for work. For few days he ran to the office with a request to take him on duty. But his request was not acceded to. On the contrary, on 02/03.01.2015 he received a registered letter having caption notice (1) wherein it was alleged that he absconded from duty with effect from 17.12.2014. On 10/11.01.2015 another notice dated 06.01.2015 was received by him with caption notice (2) wherein it was again alleged that he has absconded from duty without prior approval and advised to report in the HR Office. After receipt of both the notices, the claimant gave reply stating that he has not absconded but the mgt refused to take him for

duty. But surprisingly the mgt did not consider the reply and on 28.01.2015 by issuing a final notice terminated his service without complying the provisions of 25-F of ID Act. The claimant during his examination has proved the notice dated 29.11.2014 with caption notice (1) and the noticed dated 06.01.2015 notice (2) his reply to the mgt as WW1/11. In the oral statement the claimant clearly stated that the notices were concocted to put some blame on him and he had never absconded from duty. Rather the mgt refused to take him on duty.

The witness examined by the mgt is the DGM of the Company he proved many documents in support of the stand of the mgt that the claimant had abandoned his duty for a continuous period of 7 days or more and the mgt had never terminated his service. The claimant during cross examination was confronted with the notice number dated 29.11.2014 the notice number 2 dated 06.01.2015, and notice number 3 dated 09.01.2015 and the final notice dated 28.01.2015 marked as ww1/m1, ww1/m3, ww1/m5 and ww1/m7 respectively and asked, if he had received all these notices in his home address. To the said question the claimant answered affirmatively. On the basis of this oral and documentary evidence mgt took a stand that the claimant himself has filed the contract of his employment as ww1/2. In this document at clause 9.2(d), it has been clearly mentioned that if the employee without any authorization or reasonable explanation remains absent for more than 7 days consecutively, it will be presumed that he is no longer interested in working for the company and have abandoned his service. The company will have the right to terminate the contract of service. The mgt thereby argued that the notices placed on record clearly shows that the claimant has absented from service for consequential 7 days and more and despite receipt of notice did not report in the HR Department, which by necessary implication amount to abandonment of service. But in this case the mgt as a good gesture, called the claimant by issuing notices to report to the HR but he did not comply. Furthermore the claimant, as per his own admission had worked till 16.12.2014. On 17.12.2014 he did not accept the duty assigned to him and left the office unauthorizely and did not return despite service of the notices. The mgt witness during his examination stated that documents have been filed relating to absence and absconding of the workman from duty with effect from 17.12.2014. The notices sent to him have been acknowledged during cross examination. He did not report to the HR as directed and voluntarily left the job. Hence his demand for reinstatement cannot be entertained.

On behalf of the workman a photo copy of the log book was filed at a belated stage. The said document could not be exhibited for the objection of the mgt and kept on record being marked as X. The Ld. A/R for the workman pointed out to this log book and stated that as per the entry in the log book bearing serial no 428 dated 09.01.2015, the service of the claimant and two other operators were terminated at 6 PM, which is illegal.

From the admitted state of evidence it is evidently clear that the claimant was appointed in the mgt in July 2009 and he was granted promotion in April 2014. His last drawn salary which has not been disputed by the mgt was Rs. 19276. It is also admitted by both the parties that the claimant had last worked on 16.12.2014. Whereas the claimant states that his service was terminated with effect from 17.12.2014, the mgt has taken a stand that he himself abandoned the service by remaining absent for more than 7 days and as such his contract of employment stood automatically terminated.

It is an admitted state of fact that no termination letter, termination notice was issued or termination compensation was paid to the claimant. Hence, it is necessary to examine if the cessation of work of the claimant amounts to termination of service or abandonment of service. Clause 9.2 (b) of the employment contract exhibited by the claimant as ww1/2 clearly envisages that an employee remains absent unauthorizely for 7 days or more, the same would amount to abandonment of service leading to termination of the contract of employment. The claimant argued that he reported for duty on 17.12.2014 and thereafter. But the mgt refused to take him for work. Except the oral evidence, no document has been filed by the claimant to prove this aspect of his claim. The evidence reveals that there is a biometric system of attendance. The claimant has not stated that he marked his attendance using the same or by producing any paper in the dak to mark his attendance. On the other hand the mgt issued three notices that is ww1/m1 ww1/m3 and ww1/m5 between 29.12.2014 to 09.01.2015. Claimant has admitted receipt of these notices. In these notices the claimant was called to report before the HR and it was also mentioned that his conduct leads to an assumption that he is not interested to continue in service. Surprisingly, the claimant though admits receipts of these notices has not stated as to why he did not go to meet the HR as directed. On the contrary, he remained silent by giving written reply to the notice which has been marked as ww1/11 by the claimant. This reply was sent by the claimant on 31.01.2015 to the HR Department of the mgt. The mgt thereafter, on 20.01.2015 issues the forth and final notice to the claimant, giving him the last opportunity of furnishing proper explanation and justification for the continuous absence from duty. It is noticed from the evidence that the claimant though received the notice, did not respond to the same. Thus the circumstances clearly lead to a conclusion that the claimant on 17.12.2014 stopped reporting for duty and despite receipts of four notices from the mgt directing to report before the HR and furnish explanation for his absence, did not meet the HR and remained satisfied by giving one written reply to the notices on 31.01.2015 which is marked as ww1/11.

The Ld. A/R for the mgt argued that this is a typical case of abandonment of service by the claimant and no liability can be shaddled on the mgt. It is a fact noticeable from the evidence that the claimant, despite receipt of four notices did not appear before the HR and remained silent by submitting only one written reply marked as ww1/11. At the same time, it is also noticed that the mgt showed lack of diligence by not issuing any show cause notice to the claimant calling him to show cause as to why disciplinary action shall not be taken against him for the said

unauthorized absence. It is also noticed that the last and final notice was sent to the claimant on 28.01.2015, but prior to that in the entry dated 19.01.2015 made in the log book the termination of service of the claimant along with two others was endorsed. This action of the mgt amounts to unfair labour practice leading to illegal termination as it is not disputed by the parties that the provisions of section 25F were not complied. Be it stated here that it is not disputed here by any party that the claimant had worked for continuously for 240 days or more in the establishment of the mgt preceding the date of his termination.

Now it is to be examined to what relief the claimant is entitled to. IT is not disputed that the mgt is a company engaged in ground handling at the AIR port. It has a good number of employees to execute the contracted work. But there is absolutely no evidence adduced by the parties to make the Tribunal believe that there is still a vacancy in the Cadre of operator III in which the claimant was working before termination. His work was discontinued in the month of Dec 2014 and more than 8 years passed in the meantime. Considering the situation it is not felt proper to direct the mgt to reinstate the claimant in service. It is felt proper to direct the mgt to compensate the claimant for the illegal termination. Hence Ordered.

Order

The claim petition be and the same is answered in favor of the claimant. The termination of service of the claimant is held to be illegal as the mandatory of provisions section 25-F were not complied by the employer before such termination. The evidence is clear to the extent that the claimant had worked for the mgt for four years and four months commencing from July 2009 to Dec 2014. In view of the same the claimant is held entitled to retrenchment compensation equivalent to 15 days average pay for each completed years of continuous service and part thereof in excess of six month. Hence, the claimant is held entitled to 60 days average pay in addition to one month pay in lieu of notice and an amount towards litigation expenses. Accordingly the mgt is directed to pay Rs. 1 Lakh 50 thousand to the claimant within 1 month from the date of publication of the award without interest failing which the amount shall carry interest at the rate of 6% per annum from the date of illegal termination and till the final payment is made.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1538.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इ.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण— सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 22/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/517/97-आईआर(सी-I)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1538.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 22/1999**) of the **Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 7/09/2023.

[No. L-20012/517/97-IR (C-I)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

PRESENT

Dr. S.K.Thakur, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act., 1947

REFERENCE NO.22 OF 1999

PARTIES: : The Area Secretary,
RCMS.Chawla Building, Kumardhubi
Distt:Dhanbad

Vs.

The General Manager ,

Mugma Area of M/s ECL

PO:Nirsachatti ,Distt:Dhanbad

Order No.L-20012/517/97-IR (C-I) dt 12.01.1999

APPEARANCES

On behalf of the workman /Union : Mr.Shankar Bose Ld.Representative

On behalf of the Management : Mr. D.K.Verma, Ld. Advocate

State : Jharkhand Industry Coal

Dated, Dhanbad, 8th June ,2023**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/517/97-IR(C-I) dt 12.01.1999

SCHEDULE

“Whether the action of the the Management of Gopinathpur Colliery of M/s ECL in dismissing Shri Arjun Bhuia Underground Loader of Gopinathpur Colliery from his services w.e.f. 7.3.95 is justified? If not, to what relief the workman is entitled?”

2. This is a reference received from the appropriate Government to adjudicate the present dispute between Employer ,i.e., the Management of Mugma Area of Eastern Coalfields Ltd., and its workman/claimant ,herein, under clause (d) of Sub Sec. (1) and Sub Sec. (2A) of Sec. 10 of the Industrial Dispute Act.,1947 vide Ministry's order referred hereinabove. ,

3 Consequent upon filing the written statement of claim by the Union Representative and counter by the OP/Management the proceeding was set in motion but no further steps have been taken in progress of the proceedings from either of the parties. The workman Shri Arjun Bhaia a U/G Loader under the Management of Gopinathpur Colliery was chargesheeted on the misconduct of absentism. The workman could not produce evidence to examine on his part despite the matter stalled over this stage for years together with numerous adjournments. The issue of the matter related to valid justification of punishment of dismissal imposed on the claimant which the workman described illegal and unjustified to the charge levelled against him.

4 On perusal of the record it appears that the petitioner /workman left the matter half heartedly without taking it forward for finality since 2005 and left the issue without taking recourse of availing remedial provisions under adjudication of the Industrial Dispute Act.,1947 particularly holding the preliminary enquiry fair and proper against the workman by the Tribunal. Despite directions and granting suo motu adjournments on that score the claimant/ workman stopped taking any step in regular course on merits contrary to uninterrupted hearing till concluding for hearing for final order. It is clear that workman is not interested in adjudication of the reference on contest.

5 The workman has neither put his appearance further merely filing of written statement of claim nor has he led any evidence and or taking any step in the matter of adjudication to prove his cause. The workman stopped appearing /representing the matter since 2005. .This Tribunal is left with no choice, except to pass No Claim Award .Accordingly, “No Claim Award” is passed in the matter of reference case with no relief to the claimant concerned.

Let the Award be sent to the appropriate Government, as required under Sec. 17 of the Industrial Disputes Act.,1947 for publication.

Dr. S.K.THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1539.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बी.सी.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय**

सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 280/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/168/2000-आईआर(सी-1)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1539—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 280/2000**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 1, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L.** and their workmen, received by the Central Government on **7/09/2023**.

[No. L-20012/168/2000-IR (C-I)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 280/2000

Employer in relation to the management of Kusunda Area of M/s. BCCL.

AND.

Their workman.

Present: Dr. S.K. Thakur, Presiding Officer.

Appearances:

For Employer :- Sri D.K. Verma, Ld. Advocate.

For workman :- Sri Ram Ratan Ram, Ld. Advocate.

State : Jharkhand.

Industry:- Coal

Dated, Dhanbad, the **10th August, 2023**

AWARD

By Order No.L-20012/168/2000 IR(C-I) dated 18.09.2000, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Kusunda Area of M/s. BCCL in dismissing Sri Lalchand Gope from the services of the company w.e.f. 1/2.11.94 is justified? If not, to what relief is the concerned workman entitled?”

1. The present reference is being heard afresh as per order of the Hon’ble High Court, Jharkhand at Ranchi in WP(L) No. 6002 of 2009 in which the Hon’ble High Court of Jharkhand at Ranchi vide order dated 03.07.2023 has remitted back to this Tribunal for fresh consideration in the light of following observations.

“ 34. Parties to appear before the learned Tribunal on **18.07.2023 at 11.00 a.m.** Upon their appearance, the Learned Industrial Tribunal is directed to proceed and pass the final award in accordance with law within a period of one month from the date of the appearance. At this, learned counsel for the respondent workman has informed this court that the workman will be represented by the Union who was representing the workman earlier before the learned tribunal. It is observed that in case of any difficulty, the learned court below shall pass appropriate order for legal assistance/legal aid to the workman through the District Legal Services Authority.”

2. BACKGROUND OF THE CASE

(i) By Order No.L-20012/168/2000 IR(C-I) dated 18.09.2000, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of

the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

“Whether the action of the management of Kusunda Area of M/s. BCCL in dismissing Sri Lalchand Gope from the services of the company w.e.f. 1/2.11.94 is justified? If not, to what relief is the concerned workman entitled?”

(ii) The workman side had filed written statement of claim assailing the domestic enquiry and order of punishment for dismissal from the service based on unfair enquiry.

(iii) The main arguments advanced on behalf of the workman was that he has been acquitted from the criminal charges of theft of cable for which FIR had been lodged and charge-sheeted on dated 17.02.1994 in case under G.R. No. 575/94 and T.R. No 138/94 who was exonerated by Judicial Magistrate on the ground that no evidence has been produced who had caught red handed. He was acquitted by Judicial Magistrate, Dhanbad by order dated 25.02.1999. Since he has been acquitted in criminal cases he should not have been dismissed by the management because of the fact that management could not prove its case in the above criminal cases.

(iv) (a) As per submission of the management side the fact is that the concerned workman was a night guard. On 16.02.1994, he was caught red handed committing theft of armored cable along with joint box for which a criminal case was also instituted. In the departmental proceeding, he was served with a charge-memo dated 17.02.1994. A reply was submitted and when the reply was not found satisfactory, the domestic enquiry was conducted; copy of the enquiry report was forwarded to the concerned workman and thereafter, the dismissal order was passed on 02.11.1994. he submits that after expiry of more than four years from the dismissal the workman was acquitted in the criminal case on 25.02.1999 and thereafter, industrial dispute was raised and the dispute was referred to the Industrial Tribunal vide order dated 18.09.2000 to decide the following dispute:

“Whether the action of the management of Kusunda Area of M/s. BCCL in dismissing Sri Lalchand Gope from the services of the company w.e.f. 1/2-11-94 is justified? If not, to what relief is the concerned workman entitled?”

(b) A petition was filed by none other than the workman himself accepting that the enquiry was fair and proper. The petition is dated 14.05.2009 which has been brought on record. The tribunal passed the impugned award dated 01.07.2009 holding that the workman having been acquitted in the criminal case, no appeal was filed against his acquittal, therefore, the order of dismissal was not proper and consequently, the workman was entitled to be reinstated with 60% back wages. Against the award, the present writ petition was filed.

(c) In the domestic enquiry, there were altogether three witnesses and once the domestic enquiry was held to be fair and proper, it was for the Industrial Tribunal to consider only the material which were there before the domestic enquiry and the subsequent event which led to acquittal of the workman did not form material on record for consideration.

(d) Otherwise also the evidences before the domestic enquiry were different from the criminal case. In the criminal case, only one prosecution witness was examined and other two prosecution witnesses did not appear. In the domestic enquiry there were three witnesses and the domestic enquiry was conducted in accordance with the principles of natural justice and was held to be fair and proper.

(e) The matter was required to be examined by the Industrial Tribunal within the scope of section 11-A of Industrial Disputes Act, 1947 and that exercise has not been done by the Industrial Tribunal. The Industrial Tribunal has passed the impugned order merely on account of the acquittal of the workman by the criminal court.

(f) The management has relied upon the judgement passed by the Hon'ble Supreme Court reported in **(2019) 10 SCC 367 (Karnataka Power Transmission Corporation Limited Vs. C. Nagaraja and Another) (Para 9 to 13)** to submit that the acquittal in a criminal case on account of non-production of evidence amounts to giving a benefit of doubt and therefore, it cannot be said to be clean acquittal. He also submits that mere acquittal in a criminal case does not automatically result in exoneration in the departmental proceedings. Setting aside of the order of dismissal solely on the ground of acquittal in the criminal case is itself perverse and cannot be sustained in the eyes of law.

(g) The management also relied upon the judgement passed by the Hon'ble Supreme Court reported in **(2008) 1 SCC 115 (U.P. State Road Transport Corporation Vs. Vinod Kumar)** and has submitted that once the domestic enquiry is held to be fair and proper under Section 11-A of Industrial Disputes Act, interference would be limited to the issue relating to proportionality of punishment and whether the punishment has been imposed by practicing unfair labour practices.

3. Based on the submissions on behalf of the workman side and the management side this Tribunal passed the following Award.

“Accordingly, I render the following award- The action of the management of Kusunda Area of M/s. BCCL in dismissing Sri Lalchand Gope from the services of the company w.e.f. 1/2-11-94 is not justified. Hence, the

concerned workman is entitled to be reinstated in service with 60% back wages, but he will not be entitled for further increments and further promotion till the date of joining. The management is directed to implement the award within 30 days from the date of publication of the award."

4. Upon remitting of the reference as per order dated 03.07.2023 in W.P.(L) No. 6002 of 2009 of the Hon'ble High Court, Jharkhand at Ranchi the workman side and the management side appeared before this Tribunal on 18.07.2023 through their respective Ld. Counsel and the matter was heard on 31.07.2023 and both sides were directed to file their submissions within 3 days and serve upon each other fixing the next hearing on 07.08.2023. Both sides filed their written notes of arguments and the matter was heard for oral arguments. On hearing both sides the hearing is concluded and reserved for Award on 07.08.2023.

5. Through his submissions the workman again tried to assail the domestic enquiry proceedings and arbitrarily dismissal of the workman from service w.e.f. 02.11.1994. He also reiterated his earlier submissions that he has already been acquitted by the Court in the case upon F.I.R lodged by management for the alleged case of theft.

6. Per contra, the management side submitted list of documents filed by the management which were marked as exhibits during the earlier proceedings before this Tribunal under Reference No. 280 of 2000 with proved facts of the case.

7. The management also reiterated that during the hearing of the reference the workman representative submitted petition before the Tribunal mentioning therein that the enquiry conducted by the Enquiry Officer is fair and proper. Accordingly, this Tribunal recorded in its proceeding dated 03.06.2009 for acceptance of the workman petition dated 14.05.2009 that the enquiry held by the management as fair and proper.

8. The management side based on the above findings that the enquiry has been accepted and held to be fair and proper the order of dismissal was passed on 02.11.1994 against the concerned workman.

9. The Ld. Counsel further submits that it is well settled law that the standard of proof in criminal case is beyond the reasonable doubt whereas, in departmental enquiry the standard of proof is preponderance of probability.

10. FINDINGS

(i) The concerned workman was a night guard with the respondent management and charges of theft by the night guard himself has been proved in the domestic enquiry proceedings. The charges become grave in that the night guard whose duty is to guard the properties of the management himself indulged in the theft of the property of the management.

(ii) Further as cited, as held by the Hon'ble Supreme Court in its order in Civil Appeal No. 7729 of 2019 arising out of SLP (C) No. 25909 of 2013 in the matter of **Karnataka Power Transmission Corporation Limited Vs. C. Nagaraju and Another** that acquittal by the appellat Court has no bearing on decision on disciplinary authority in the departmental enquiry proceedings and justifying the actions taken by the management even if acquittal to the charged employee by the appropriate Court of law.

11. AWARD

(i) In the light of above discussions this Tribunal is of considered opinion not to interfere in the punishment of dismissal from the service against the concerned workman by the management based on the findings of the domestic enquiry proceedings. The punishment ordered upon the concerned workman is not only punishment to concerned individual but also that it sends message to others as a deterrent measures and as such no relief is awarded in service matter to the workman.

(ii) However, considering the age of the concerned workman and also that he has been fighting the legal battle at different forum from the year 1994 this Tribunal is of the opinion for considering a monetary compensation as cost of legal expenses made by the dismissed workman from 1994, on compassionate basis. Therefore, this Tribunal Awards Rs. 50000/- (Rupees fifty thousand only) as monetary compensation towards legal expenses incurred by the concerned workman and it is ordered that the management of Kusunda Area of M/s. BCCL should pay the above compensation of Rs. 50000/- (Rupees fifty thousand only) to meet the legal expenses incurred by the concerned workman. This compensation should be paid to the concerned workman Sri Lalchand Gope by the management within 2 (two) months of receipt of the notification of this award.

Dr. S.K. THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1540.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल.के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण— सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 60/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/32/2002-आईआर(सी-1)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1540.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 60/2002**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L.** and their workmen, received by the Central Government on **7/09/2023**.

[No. L-20012/32/2002-IR (C-1)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

Present: Dr.S.K.Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO. 60 OF 2002.

PARTIES: : The Vice President,
R.C.M.S.,
Rajendra Path, Dhanbad

Vs.

The Project Officer,,
Bhowra O.C.P. of M/s BCCL,
PO:Bhowra,Distt: Dhanbad

Order No. L-20012/32/2002-IR(C.1) dated 17.07.2002

On behalf of the workman/Union : Mr.N.G.Arun, Ld. Union Representative

On behalf of the Management : Mr.U.N.Lal, Ld. Advocate .

State : **Jharkhand**

Industry : **Coal**

Dated, Dhanbad, the 24th April,2023

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D.Act,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/32/2002-IR(C.1) dated 17.07.2002**

SCHEDULE

“Whether the demand of RCMS from the Management of Bhowra O.C.P. of BCCL to regularize the workman, Shri Awatar Singh in Grade “D” since 1998 is proper and justified? If yes, to what relief is the workman entitled ?”

2. In the present case, a reference was received from the appropriate Government vide **Order No. L-20012/32/2002-IR(C.1) dated 17.07.2002** under clause (d) of Sub-Section (1) and Sub-Section (2A) of Sec.

10 of the Act for adjudication of a dispute, terms of which are referred as above. The case was registered as Ref. No. 60/2002 and notice served upon the parties for appearance.

3. The brief facts of the case as submitted by the sponsoring Union on behalf of the workman is that workman Shri Awatar Singh was transferred as Electrical Fitter helper in Bhowra C.P.P. under Eastern Jharia Area of M/s BCCL in Grade "E" w.e.f. 12.04.1994. After completion of one year the workman should have been regularized as E.F. Fitter in Grade "D". But he was regularized as E.P. Fitter Helper on 13.12.2001 which itself is illegal and as such seeking direction from the OP/Management to place him in Grade "D" Excavation as E.P. Fitter since 1998 is justified and within the ambit of the Cadre Scheme with prayer to answer the Reference in favour of the workman.

4. On the other hand O.P./Management took stand that Shri Awatar Singh was initially appointed as General Mazdoor in Cat.I on 23.03.1993 in substitution to his father who was declared Medically unfit. Thereafter, the workman was transferred to Bhowra (N) U/G Mine and again transferred to Bhowra O.C.P. and given an assignment as EP Helper (T) in T/R Category -II. Shri Abtar Singh has been regularized as E.P. Helper in Excavation Category w.e.f. 13.03.2001 in the background of job performed by him in accordance with the Implementation Institution No. 49/Grade Scheme and Company's manual/policy. As regard the further promotion in Ex.-Grade "D" minimum four years experience in Excavation Grade "E" is prerequisite to be possessed by the workman before appearing in Selection Process and so the promotion is not automatic but based upon certain criteria. So the demand of the Union for giving Grade "D" from 1998 is not legitimate, correct on the basis of the policies laid down in the Company's manual and the provision contained in the Cadre Scheme. So the action of the Management not agreeing to accede to the demand of the union is just and proper as the workman is not entitled to any other relief in the matter.

5. The proceeding of the matter was set into motion after filing claim and counter claim by the parties concerned through the Ld. Auth. Representative. After filing certain documents in support of union/contention certain documents had been called for from the ALC, Dhanbad. On receipt of the document matter rolled over evidence of the workman which remained stalled since 18.01.2005 without any cogent reason and the Union repeatedly failed to turn up to contest the matter. From perusal of record shows that the claimant during the proceeding had never taken steps to adduce evidence and opted to stay away from the proceedings. Thus, it is clear the Sponsoring Union/workman is not interested in adjudication of the reference on merits. With passage of time the matter of the fact lost its relevancy and became infructuous.

6. Thus having regard to the facts and materials available on record it has been absolutely clear that the Sponsoring Union stopped appearance in the matter nor took any steps in the matter of advancing the stalled proceedings despite adjournments and notices as well. So it is held that the claimant is no longer interested to contest the matter on merits. Therefore, this Tribunal is left with no choice except to pass "No Claim Award". Accordingly a "No Claim Award" is passed to be sent to the appropriate Government as required under Sec. 17 of the Industrial Disputes Act, 1947 for publication.

Dr. S.K. THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1541.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण— सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 20/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/388/2000-आईआर(सी-1)]

मणिकंदन एन, उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1541.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2001) of the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 7/09/2023.

[No. L-20012/388/2000-IR (C-1)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

Present: Dr.S.K.Thakur, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO 20 OF 2001.

PARTIES: : The General Secretary,
Bihar Pradesh Colliery Mazdoor Congress ,
Ghanoodih Colliery,
PO:Jharia,Distt:Dhanbad
Vs.
The General Manager, ,
Bastacolla Area of M/s BCCL.,
PO:Jharia,Distt:Dhanbad
Order No. L-20012/388/2000-IR(C-I) dated 25.01.2001

On behalf of the workman/Union : Mr.N.G.Arun, Ld. Union Representative

On behalf of the Management : Mr.U.N.Lal, Ld. Advocate .

State : Jharkhand Industry Coal

Dated,Dhanbad ,the26th April, 2023

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D.Act,1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/388/2000-IR(C-I) dated 25.01.2001 .

SCHEDULE

“Whether the action of the Management of M/s BCCL in not regularizing the services of Sri Anwar Ali, Russian Drill Operator .Excav. Gr ”A” as Transport Supervisor in Tech . & Supervisor Gr. “B” w.e.f. 27.12.94,Sri Nathuni Jha,Sr. Dozeer Operator ,Excav Gr. “A” as loading Inspector in Tech. & Supv.Gr.”B” w.e.f. 19.08.94 ,Sri Dineshwar Mishra ,Drill Operator Excav. Gr.”B” as Pit Supervisor in Tech. & Supevisary Gr.”B” w.e.f. 5.2.95, Sri Uday Kar Thakur ,Sr. Mechanic Excvn. Gr.”A” as Excavation Supervisor in Technical and Transport Gr.”B” w.e.f. 21.11.94 of Golakdih Open Cast Project under Bastacolla Area is justified and legal? If not, to what reliefs are the workmen entitled?”

2. The Government of India, Ministry of Labour & Employment has referred the present dispute existing between employer and its workmen/claimants herein, under the clause (d) of Sub Section (1) and Sub-Section (2A) of Sec.10 of the Industrial Dispute Act 1947 vide Order No.L-20012/388/2000-IR(C-I) dated 25.01.2001 to this Tribunal for adjudication.. The reference largely deals with the grievance of the non-regularization of the workmen to the posts they are being asked to carry out those jobs.

3. The claim statement filed by the Sponsoring Union states the following :

i) That Shri Anwar Ali ,through designated as Russian Drill Operator in Excav. Gr.”A” has been working Transport Supervisor since 27.12.1994 and thereafter he is entitled for regularization as Transport Supervisor in Tech. & Sup. Grade “B” w.e.f. 27.12.1994 Another workman namely Shri Nathuni Jha designated as Dozer Operator in Excav. Grade “A” has been working as Loading Operator since 19.8.1994 ,as such he is entitled for regularization Tech. & Supervisory Grade “B” w.e.f. 19.8.1994 .Similarly Shri Dineshwar Mishra ,though designated Drill Operator in Excav. Gr.”B” has been working as Pit Supervisory w.e.f. 5.2.95 and he is entitled for regularization as Pit Supervisory Gr.”B” w.e.f. 5.2.1995 and Finally Shri Uday Kar Thakur though designated as Sr. Mechanic in Excav. Gr. “A” has been working as Excav Supervisor w.e.f. 21.11.1994 and as such he is entitled for regularization in Tech & Supervisory Gr. “B” w.e.f. 21.11.1994 .All of these workmen have been working continuously on the posts mentioned against their names at Golukdih Open Cast Project of Bastacolla Area with approval of the competent authority .So the demand of the Union is legal and justified as all of them are well qualified for regularization .So the case predominately stands for regularization not for promotion

ii) Though the workmen concerned have been working in different Excav. Grades but all of them are working on Supervisory Posts from the dates mentioned against their names without any interruption so they are entitled for regularization on the posts and Grade mentioned against their names. Since all of them had been duly authorized by the Competent Authority to work on the jobs mentioned against their names. The contention of the Management is not correct at all that the workmen concerned in connivance with the Project Officer of Golukdih Open Cast Project have managed the matter of getting authorization for the working in different jobs they were entrusted upon. Taking this as tool they are now claiming for regularization, which is misleading, confusing and far from the facts.

iii) So the action of the Management of M/s BCCL in not regularizing the services of the concerned workmen on the job being performed from the date mentioned against their names is not justified rather they are entitled for regularization on the designations and Grades mentioned against their names.

4. In a sharp contrast to the claims of the workmen the OP/Management :

(i) came out with pleading that the present reference is not maintainable itself in the eye of law with assertions that S/Sri Anwar ali, Nathuni Jha and Dineshwar Mishra belonging to the Cadre of Operators operating Machines like Drill, dozer etc. whereas the workman Sri Uday Thakur is the Mechanic in carrying out the jobs of repairing and maintenance of Excavation Machineries. Originally being related to Time Rated Categories there is no scope for them to get their cadres changed to the Supervisory posts directly by circumventing the cadre Scheme duly formulated by the JBCCI and their posting to Supervisory posts is completely disregarding the claims of the persons belonging to their categories as well as the persons already existing in the Higher Categories in the Cadres.

ii) Notable the then Project Officer, (now Retired) is in convince with the workmen concerned purported to have issue some Authorization authorizing them to perform different jobs other than specified for them. It is with aiming to get white collar jobs of Foreman by way of litigation taking the authorization as their tools. The so called authorization granted by then Project Officer is beyond his competency. So the entire claim made out by the Sponsoring Union is without any merit and the workmen concerned are not entitled to any relief.

5) The workmen /claimants and the OP/Management filed their respective rejoinder rebutting each other stand therein categorically

6). During the hearing of the case the workmen were called to adduce evidence and they made depositions and exhibited documents but all the workmen could not adduce. Perusal of the record shows that the workmen deserted the proceeding since February, 2008. Thereafter, no representation was made in the matter of the stalled proceeding of the matter. They stopped appearing in the case in regular course of hearing despite ample opportunity provided. Hence, it is held that the claimants are not interested to relief as sought for. Therefore, "No claim Award" is passed being devoid of participation in the proceedings.

Dr. S.K. THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1542.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 179/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/455/98-आईआर(सी-1)]

मणिकंदन एन., उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1542.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 179/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on 7/09/2023

[No. L-20012/455/98-IR (C-I)]

MANIKANDAN N., Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.****Present: Dr.S.K.Thakur, Presiding Officer.**

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947.

REFERENCE NO 179 OF 1999.**PARTIES**

: The Asstt. Secretary,
Rastriya Colliery Mazdoor Sangh
Central Workshops ,Barkakana PO: Barkhana
Distt: Hazaribagh
Vs
General Manager,
Central Workshop, Barkhanna, of M/s CCL
PO:Barkhhan,NTS ,
Distt:Hazaribagh
Ministry's Order No.L-20012/455/98-IR(C-I) dt. 17.04.1999

APPEARANCES

:
On behalf of the workman/Union Mr.K.Chakraborty, Ld.Advocate
On behalf of the Management Mr.D.K.Verma, Ld.Advocate .

State : JHARKHAND Industry : Coal

Dated, Dhanbad, the 24th April , 2023.**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Ministry's Order No.L-20012/455/98-IR(C-I) dt. 17.04.1999.

SCHEDULE

“Whether the demand of the Rashtriya Colliery Mazdoor Sangh to regularize 17 workmen as per list as Clerk Category-III is proper and justified? If yes, from which date and what benefits these workmen are entitled to?”

List of the workman

Sl.No.	Name of the workman
1	Shri Sailendra Kumar Singh
2	Shri Tuleshwar Mahato
3	Shri Suresh Kumar Viswakarma
4	Miss Alpana Kumar Pandey
5	Shri Puran Mahato
6	Shri Basant Narayan Mahato
7	Shri Dinesh Kumar Thakur
8	Shri Birendra Kumar Mahato
9	Smt. Mamta Kumari
10	Shri Dewashsish Mukherjee
11	Shri Kailesh Kumar

12	Shri Nand Lal Das
13	Shri Jetendra Kumar Pathak
14	Shri Rajiv Ranjan Kumar Srivastava
15	Shri Ravindra Kumar No. 1
16	Shri Mahakanth Mishra
17	Shri Anil Kumar Singh

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. The claimants filed the written statement of claim and some documents in contention of the claim.

3. During the pendency of the reference notices were sent to the workmen as well as the Management. None of the notices sent to the claimants was returned back. Therefore, it is presumed that the above notices were served upon the claimants. Despite availing suo-motu adjournments granted under the proceedings during the period of hearing the claimants opted to stay away from the proceedings about their regularization into the service in Central Coalfields Limited (CCL). No steps have been taken further in the matter of producing evidence on their behalf in regular course since 2004 so as to prove their cause as none appeared /represented after 2004. Thus, it is clear that workmen are not interested to proceed with the case in the matter of adjudication of the reference on merits, referred above.

4. The workmen concerned have neither put their appearance nor have they led evidence and shown interest so as to prove their cause against the Management. This Tribunal is left with no option, except to pass "No Claim Award" and ordered accordingly. Let this No Claim Award be sent to the appropriate Government, as required under Sec. 17 of the Industrial Disputes Act, 1947 for publication.

Dr.S.K.THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1543.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल.के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 24/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/326/99-आईआर(सी-1)]

मणिकंदन एन., उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1543.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 24/2000**) of the **Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on 7/09/2023.

[No. L-20012/326/99 - IR(C-I)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Dr.S.K.Thakur,

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO 24 OF 2000.

PARTIES: : Sri Bhagirathi Sharma,
General Secretary,
N.C.O.I.O , Karo Special Project of M/s CCL.,
PO: Bokaro Thermal, Bokaro
Vs.
The Project Officer,
Karo Special Project,
PO: Phase II of M/s CCL,
PO: Bokaro Thermal .Distt: Bokaro 829107

Order No. L-20012/326/99 C-I dt.23.01.2000**APPEARANCES :**

On behalf of the workman/Union : None .
On behalf of the Management : Mr. D.K.Verma, Ld. Advocate

State : Jhrkhand**Industry : Coal****Dated, Dhanbad, 8th June, 2023****A W A R D**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/326/99 C-I dt.23.01.2000.**

SCHEDULE

Whether the action of the Management of Karo Special Project, Phase –II of M/s CCL M/s PO. Bokaro Thermal ,Distt:Bokaro in terminating the services Sri Rohan Manjhi P.R.W. w.e.f. 10.08.98 is legal and justified ? If not, to what relief the concerned workman is entitled ? ”

2. In the reference order, the Sponsoring Union filed the statement of claim which was countered by the OP/Management denying the stand of the points and vice versa. With this the proceeding was set in motion on evidence of the Management /Upon failure to adduce evidence the same was passed over to the Union side. Since then the claimant stopped appearing in the proceedings in regular course and did not avail remedial provisions contained under provisions of the Industrial Dispute Act.1947 till concluding of the hearings.
3. On perusal of the record, it appears the workman Shri Rohn Manjhi opted to abstain away from the proceedings since 2006 and no further steps was taken in the matter despite ample opportunity and notices Thus, it is clear that the workman is not interested in adjudication of the reference on contest.
4. As the workman has neither put his appearance nor has he led any evidence so as to prove his cause against the Management, this Tribunal is left with no choice except to pass a “No Claim Award”. Accordingly a “No Claim Award” is passed granting no relief to the workman concerned.
5. Let the Award be sent to the appropriate Government as required under Sec. 17 of the Industrial Dispute Act 1947 for publication.

Dr. S.K.THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1544.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल.के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 42/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/214/2005-आईआर(सीएम-1)]

मणिकंदन एन., उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1544.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 42/2006**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on 7/09/2023.

[No. L-20012/214/2005- IR(CM-I)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT

Dr.S.K.Thakur

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947.

REFERENCE NO. 42 OF 2006.

PARTIES

The Secretary ,,
U.C.W.U.,G.M.Unit,Kuju,Kuju Area,
At/PO: Toppa,

Hazaribagh (Jharkhand) -825301

VS.

General Manager
Kuju Area of M/s CCL.,
PO:Kuju,Hazaribagh-825301

04.12.2012

Order No.L-20012/214/2005-IR(CM-I) dt. 12.06.2006

APPEARANCES :

On behalf of the workman/Union : Mr.U .N.Lal, Ld.Advocate

On behalf of the Management : Mr.D.K.Verma, Ld.Advocate

State : JHARKHAND Industry : Coal

Dated, Dhanbad, the 26th April,2022.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/214/2005-IR(CM-I) dt. 12.06.2006.

SCHEDULE

“Whether the demand of the UCWU from the Management of CCL,Kuju Area that Sh. Alok Kumar Choubey may be regularized as Data Entry Operator Gr.”E” is justified?”If so to what relief is the workman entitled and from what date?”

2. The Government of India in Ministry of Labour & Employment has referred the present dispute existing between Employer i.e., Management of Kuju Area of M/s Central Coal Field Ltd. (CCL) and its workman/claimant herein, under clause (d) of Sub Section (1) and Sub. Sec. (2A) of Sec. 10 of the Industrial Dispute Act 1947 vide its letter No. referred above for adjudication. Subsequently the case was registered as Ref. No. 42-2006.

3. The Reference is received on 21.07.2006 by this Tribunal vide which the Sponsoring Union UCWUGM Un it Kuju Area has been advised to submit statement of claim along with relevant documents within stipulated date. However, after receipt of the reference, both the parties were noticed and both their parties appeared through their Ld. Advocate and filed their r respective clams on different dates denying each other stand of their claims.

4. Further during the pendency of the proceedings the workman concerned Mr.Alok Kumar Choubey moved petition before the Court seeking for withdrawal of the Case from contesting. Mr.S.N.Ghsh, Ld. Advocte who was present for some other cases was made a witness. Ld. Advocate for the OP/Management Mr.D.K.Verma did not object to the contention for the workman.The O.P./Management is ready to settle the matter of reference under adjudication if the workman withdraws the petition. The workman prays the matter may be allowed to be withdrawn .Which was allowed .Hence No Claim Award is passed.

5. Let the copy of the Award be sent to the Appropriate Government as required under Sec. 17 of the Act for publication.

Dr. S.K.THAKUR, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2023

का.आ. 1545.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बी.सी.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण— सह - श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 149/1993)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **7/09/2023** को प्राप्त हुआ था।

[सं. एल-20012/180/92-आईआर(कोयला-I)]

मणिकंदन एन., उप निदेशक

New Delhi, the 19th September, 2023

S.O. 1545.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 149/1993**) of **the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L.** and their workmen, received by the Central Government on **7/09/2023**.

[No. L-20012/180/92- IR(Coal-I)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.

PRESENT

Dr. S. K. THAKUR

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act.,1947

REFERENCE NO.149 OF 1993.

PARTIES: : The Secretary,
Bihar Colliery Karmgar Union,
Temple Road., Purana Bazar,
Dhanbad -826001
Vs.
The General Manager,
M/s Bharat Coking Coal India Ltd.,

Bastacolla Area No. IX ,PO:Jharia

Dhanbad

Order No. L-20012/180/92-IR (C-I) dt. 14.09.1993**APPEARANCES**

On behalf of the workman /Union : Mr. K.Chakravorty Ld. Advocate

On behalf of the Management : Mr. D.K.Verma, Ld.Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 8th June,2023**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/180/92 -I.R.(Coal-I) dt. 14.09.93.

SCHEDULE

“Whether the action of the Management of G.O.C.P. under Bastacolla Area No. IX of M/s BCCL in not regularizing the services of Shri Pawan Mahato and 26 others is justified ? If not, to what relief they are entitled to ?”

List of the workers

SI No.	Name
1	Pawan Mahato
2	Jadu Mahato
3	Narayan Paandey
4	Amarjit Pandey
5	KissuMahato
6	Kisun Mahato
7.	Lal Mohan Mahato
8	Anand Mahato
9	Sadhu Mahato
10	Ujjar mahato
11	Harihar Singh
12	Satish Mandal
13	Dayari Gope
14	Gouri Manjhi
15	Barsu Manjhi
16.	Sudhir Mandal
17	Kunt Devi (1)
18	Kunti Devi (2)
19	Malti Devi
20	Shanti Devi(1)
21	Shanti Devi (2)
22	Sacchi Devi

23	Juhiya Milege
24	Sulochna Devi
25	Bhadu Kumari
26	Sidheswari
27	Bindu Devi

2 This is a reference from the Appropriate Government vide order mentioned herein above existing between the Management of M/s BCCL of Bastacolla Area No.IX ,Dhanbad its workers (Claimants) about their regularization under clause (d) of Sub Sec. (1) and Sub. Sec. (2A) of Sec. 10 of the Industrial Dispute Act 1947.

3 Consequent upon filing written statement of claim by the Sponsoring Union in pursuant to the Reference under order to the cause of their regularization of services to the OP/Management and the counter by the OP/Management , hearing of the case matter proceeded on merits with rejoinder by both the parties denying each other stand. The matter finally rolled over evidence of the OP/Management that after completion passed over to the Union/workmen(Claimants).In course of adducing evidence both the sides adduced evidences of respective sides and exhibited the documents in relation to the case matter. Amidst some complaint the proceeding was put on hold awarding of reference with direction to await the response from the Ministry .The final arguments could not be completed and the Sponsoring union finally stopped representing the matter since last several years without taking any steps. The Sponsoring Union left the matter in mid way in regular course without completing the stage of finality.

4 During the pendency after rival pleadings the Sponsoring Union abruptly stopped representing the hearing of the proceeding despite granted adjournments and notices. Considering age of the Reference being stale one and without any representation from workmen, it deserves early disposal.

5. From the facts and materials on records it transpires that the Sponsoring Union does not seem to be interested to adjudicate the matter on contest. So the proceeding is closed being devoid of the merits as if no grievance against the OP/management by the Union. Accordingly, the Reference is closed as “No claim” and so a “No Claim Award” is passed.

Dr. S.K.THAKUR, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1546.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 1 चंडीगढ़ के पंचाट (95/2014) प्रकाशित करती है।

[सं. एल-39025/01/2023-आईआर(बी-II)-42]

सलोनी, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1546.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 95/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I, Chandigarh* as shown in the Annexure, in the industrial dispute between the management of *Punjab & Sind Bank* and their workmen.

[No. L-39025/01/2023- IR(B-II)-42]

SALONI, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh.

Present: Sh. J.K. Tripathi, Presiding Officer.

ID No.95/2014

Registered on:-18.07.2014

Sh. Jatinder Pal Singh S/o Shri Kulbeer Singh, Resident of House No.47, Gali No.8, New Jawahar Nagar, Phase-2, Batala Road, Amritsar.

.....Workman

Versus

1. Zonal Manager, Punjab & Sind Bank, Amritsar.
2. Chief Manager, Guru Nanak Dev University, Punjab & Sind Bank, Amritsar.

.....Respondents/Managements

AWARD

Passed On:-03.07.2023

1. The workman Sh. Jatinder Pal Singh has directly filed the present claim petition under Section under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter called the Act), with a prayer to reinstate the workman along with continuity of service and full back wages.

2. The brief facts for deciding this claim petition as per the claim of the workman is that the workman is Matric pass and being qualified and eligible for the post of Peon. The workman was engaged by the Branch Manager F.C. Road, Amritsar with the approval of Zonal manager of Amritsar as temporary Peon on 28.12.2004 at Rs.70/- per day. W.e.f. March 2005, the workman was orally transferred to Branches under the Zonal Office Amritsar, namely Jagdev Kalan Branch, Chowk Pragdas upto January 2010 and ultimately he was orally transferred to Guru Nanak Dev University Branch where the workman joined as temporary Peon in February 2010 and was being paid Rs.120/- per day. The workman who has worked as temporary Peon for about six years with the management but the services were orally terminated in the month of January 2011 without giving notice of one month and retrenchment compensation in violation of Section 25-F of ID Act, 1947. The management is required to maintain seniority list of its temporary employees as per Industrial Disputes Rules 1956 but the management has not prepared/maintained any seniority list of temporary Peon and thus, the management is adopting pick and choose policy while terminating the services of senior and retaining the juniors in violation of Section 25-G. Not only this, the management is engaging the fresh temporary Peon in the Zonal Office, Amritsar without giving preference to the seniors retrenched Peon like workman in violation of Section 25-H of the ID Act, 1947. The action of the management orally transferring the workman to various Branch in the same Zonal Office and ultimately terminating the service of workman amount unfair labour practice of management and violating section 25-T of the ID Act, 1947. In view of the facts stated above, it is therefore prayed that the management be directed to reinstate the workman into service w.e.f. January, 2011 along with continuity of service and full back wages in the interest of justice.

3. The management has filed written statement, alleging therein that after a lapse of more than 2-1/2 years, no industrial dispute could be treated to have arisen/existed and as such the workman is not entitled to any relief. The workman was engaged in the bank to meet the intermittent exigencies of service and that too without following the principles envisaged under Articles 14/16 of the Constitution of India for making public appointments/ engagements. The workman has no right for regularization/ continuation in the service of the bank nor he has any legally defensible right for reinstatement in service of the bank. It is now well settled law that the Casual Workers/Daily Wagers and temporary employees engaged without following the procedure for making regular appointments are not entitled to protection under Section 25-F of the Industrial Disputes Act. Reference is drawn to a Division Bench judgment of Hon'ble Punjab & Haryana High Court reported as **2003(5) SLR 766 The Head Master, Government High School, Behrana Vs. Ajit Singh & Anr.**, wherein it was held that all the appointments on government jobs have to be made in accordance with the statutory rules and where entry of workman into service was backdoor entry, provisions of Section 25-F of the Industrial Disputes Act are not applicable. In the case **reported 1997 LIC 2075 Himanshu Kumar Vidyarthi & Ors. Vs. State of Bihar**, wherein the Hon'ble Supreme Court of India held that termination of services of employee appointed on the basis of need or work cannot be construed to be retrenchment. The plea of the workers in the said case that their services were terminated in violation of Section 25-F of the Industrial Disputes Act, 1947 was rejected. A person engaged unauthorisedly has no right to continue in service. A large number of temporary employees were engaged in different Public Sector Banks. The matter was seized by the Ministry of Finance which appointed the Committee to look into the matter. The committee framed its guidelines in 1989 and on the basis of such guidelines, the Ministry of Finance issued directions to the Banks to sort out the matter of temporary employees in accordance with such guidelines. Following the directions of the Government, Bank entered into settlements dated 16.10.1992 and 13.08.1994 with majority of recognized workmen-union of the Bank according to which all those persons who have worked in the Bank continuously for 240 days in 12 consecutive months were to be regularized subject to availability of vacancies. The cut-off date of having completed 240 days was 31.12.1989. It was also stated in the settlements that since all the persons have not been recruited through Employment Exchange, the Bank had to seek exemption from the Directorate of Employment before appointing such persons. Strict instructions were issued from time to time by the Bank pursuant to the Government guidelines that "no fresh temporary persons/casual workers should be appointed by any Branch manager and anybody violating the same shall be personally liable for the same".

The workman was not covered under the Settlements referred above and as such, the workman has no right for continuation/reinstatement in service of the Bank. In view of the facts explained above, it is therefore prayed that the claim of the workman is absolutely devoid of merits and is liable to be rejected/decline.

4. During the pendency of the proceedings before this Tribunal on 03.07.2023, the case was fixed for evidence of the workman. Earlier Sh. R.P. Rana was engaged as AR for workman. today he is withdrawing his authority letter. He is permitted to withdraw his authority letter. A fresh notice was issued to the workman on earlier request of Sh. R.P. Rana, AR of workman. Notice was issued by the office. No registered notice has come back. It is presumed that notice is properly served upon the workman but the workman has not turned up in person. It appears that the workman has no interest to further proceed the case. Therefore, the case is dismissed in default for the non-prosecution of the workman.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J.K. TRIPATHI, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1547.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना के पंचाट (01 (C) of 2021) प्रकाशित करती है।

[सं. एल-39025/01/2023-आईआर(बी-II)-43]

सलोनी, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1547.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 01 (C) of 2021) of the *Indus. Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-39025/01/2023- IR(B-II)-43]

SALONI, Dy. Director

ANNEXURE

Before the Presiding Officer Industrial Tribunal, Patna.

Reference Case No.:- 01 (C) of 2021

Between the management of (1) The Zonal Manager, Central Bank of India, Maurya Lok Complex, 3rd Floor, Patna-800001 (2) The Asstt. General Manager, Regional Office, Central Bank of India, Alalpatti, PO-DMCH, Distt.- Darbhanga-846004, Bihar and Their workman Sri Bimal Chandra Mishra, C/O- Dr. S.M. Kolay Building, 1st Floor, J.M. Road, Gali No.-1 PO- Lalbagh, Opp Sambadana Hospital, Dist.- Darbhanga-460001.

For the management:- Sri Siddharth Harsh (Advocate).

no.-(1) & (ii)

For the workman:- Sri Krishna Kumar, (Advocate)

Present:- Manoj Shankar
Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, dated- 20th July, 2023

By the adjudication order no.- 1/ID(4)/2020/Dy CLC-Pt dated- 08.01.2021 the Govt. of India, Ministry of Labour & Employment, Office of the Dy. Chief Labour Commissioner (Central), Maurya Lok Complex, A Block, 2nd Floor, Room No.-6,16,& 17, Patna-800001 has referred under clause (d) of sub-section-(1) of Section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “the Act”), the following dispute between (1)

The Zonal Manager, Central Bank of India , Maurya Lok Complex, 3rd Floor, Patna-800001 (2) The Asstt. General Manager, Regional Office, Central Bank of India, Alalpatti, PO-DMCH, Distt.- Darbhanga-846004, Bihar and Their workman Sri Bimal Chandra Mishra, C/O- Dr. S.M. Kolay Building, 1st Floor, J.M. Road, Gali No.-1 PO- Lalbagh, Opp Sambadana Hospital, Dist.- Darbhanga-460001 for adjudication to this tribunal:-

SCHEDULE

“Whether the action of the management of Central Bank of India imposing the punishment of dismissal from service on the workman Sri Bimal Chandra Mishra is fair, legal and justified? If not, what relief the workman is entitled to?”

2. After receipt of the reference / notification, notice was issued to the parties concerned. Both parties appeared before this tribunal and filed Statement of claim and written statement respectively.

3. Briefly stated the case of the workman is that vide memo no.- Ro/DA/2014-15/41 dt- 03.11.2014 the disciplinary authority i.e Assistant Manager, Regional Office, Darbhanga had issue a charge sheet against the workman (Sri Bimal Chandra Mishra) making allegation as charge no.-1 (One Sri Sunil Kumar Choudhary deposited cash of Rs. 36000/- on 30.05.2011 at Singhwara Branch in the CKCC account, this account was received by workman (CSE) at cash counter of the said branch but the amount was not credited to the account of said person. It is alleged that the petitioner /workman acted fraudulently and misappropriate the bank fund, above act of omission and commission by the workman are malafide intention and prejudicial to the instant of the bank and falls with gross misconduct as per clause 19.5(j) of DAP for workman dt- 10.04.2022. It is further asserted that the charge was enquired and as per finding of enquiry officer the charge was proved and awarded punishment by dismissing without notice under clause 6(A) of the DAP for the workman dt- 10.04.2022 and the said punishment had been inflicted dt- 06.08.2015. It is further asserted that the workman preferred an appeal against the said enquiry order before the Appellate Authority which was disposed on 01.02.2016 without giving any relief to the workman. It is further asserted that the workman moved before the Hon'ble High Court, Patna in CWJC No.- 4747 of 2016 for quashing the said punishment and appellate order but during the pendency of the said writ petition, the workman also moved before the Regional Labour Commissioner (Central) raising the Industrial Dispute against the penalty and the assailed the order of Appellate Authority under section-12 of the Industrial Dispute Act due to which the Hon'ble High Court, Patna disposed the writ petition vide order dt- 21.11.2019. It is further asserted that after failure of conciliation Govt. of India, Ministry of Labour & Employment referred the matter before this tribunal. It is further asserted the alleged irregularity was committed in the bank on 30.05.2011. However the departmental proceeding initiated by issuing charge sheet to the workman on 30.11.2014 after more than three years, while such cash shortage incident can not be left for a day as a matter of principle and not beyond as a matter of general practice accordingly the delayed initiation of proceeding which is bad in law. It is further asserted that in the charge sheet it is shown gross misconduct done by as per clause 19.5(j) of sub clause of the DAP for the workman of dt- 10.04.2022. However, DAP does not contain any clause like wise 19.5 (j). As the said documents contain only 16 clauses, hence all action of the bank to proceed under the said clause against the workman has become in effective and baseless and the same is fit to be set aside. It is further asserted that the petitioner / workman was posted at Singhwara branch in December 2010 when the CBS system was not running in the said branch. On 30.05.2011 the workman received Rs. 36,000/- of the account holder against which he issued manual receipt, entered into CBS system, deposited in the bank locker but the said fact has been confirmed on physical verification of the account at the time of closure of the bank on that day, however, during physical verification on 14.06.2011 the said amount was entered in the system on that day, he was absent from the duty. It is further asserted that the workman has placed the supportive documents of cash receipt as much of the voucher cash balance register and CBS GL and cash balance but none of the documents has properly been considered by enquiry officer as well as disciplinary authority, while awarding major punishment. It is further asserted that real fact is there was no shortage of cash on 30.05.2011 and only the voucher was not posted in the party account which was not my responsibility by the workman as a receiving head cashier. Non posting of voucher does not mean that cash so received from the duty has been kept by the workman and taken out of the bank, moreover, correction dt- 14.06.2011 has not been done by the workman. It is further asserted that the amount transferred to volt on 14.06.2011, on that day the workman was on leave however, safe was closed Rs. 36,000/- less. So allegation regarding defalcation and misappropriation is false and concocted. It is further asserted that the workman served the bank to the best of his ability and with full satisfaction to the higher authority and retired from bank w.e.f 31.03.2016. However, at last stage of his service major punishment has been awarded to the workman without verification of records. It is further asserted that the punishment awarded by the disciplinary authority is contrary to the law and the proceeding has initiated after three years of alleged occurrence is also contrary by the Bi-partite settlement and Sastri award so the impugned order has deposed by the management / bank is bad in law and fit to be set aside. The workman sought following relief to set aside the order dt- 06.08.2015 passed by the Asst. General Manager cum Disciplinary Authority and dismissal order dt- 29.07.2015 and further setting aside the order dt- 01.02.2016 passed by the Dy. General Manager, Central Bank of India by which wrong ful punishment of dismissal order has been confirmed. Further sought for relief for the payment of back wages / salary from the date of dismissal with all consequential benefit till the date of retirement and there upon all the remaining benefits including leave in cash and pensionary benefits arrear as well as amount pension to the workman with 15% compound interest with cost for the ends of justice.

4. On other hand the management bank also filed written statement mentioning therein the claim of the workman is not maintainable either in law or in facts. It is further asserted that employer /bank started a departmental proceeding against the workman on the charge that one borrower namely Sushil Kumar Choudhary had deposited cash of Rs. 36,000/- on 30.05.2011 in his CKCC loan account bearing account no.- 2241733201 at Sigghwara branch of Central Bank of India. The amount was received by the workman at cash counter, but the same was not credited to CKCC loan account of the borrower. For this misconduct, the bank served a charge sheet on 03.11.2014 to the complainant / CSE (Workman) appointing Sri Anil Kumar, Manager, Darbhanga branch of Central Bank of India as an enquiry officer. It is further asserted that the Disciplinary Authority vide order dt-07.11.2014 appointed Sri Binod Kumar Sinha, Assistant Manager, Regional Office, Darbhanga as presenting officer. It is further asserted that the charges against claimant / workman (CSE) are grave in nature which including non – credit of the amount in CKCC loan account of the depositor and in the light of said charges, the punishment awarded to the claimant is very much justified. It is further asserted that the order of dismissal has been passed by the management only after proving the charges against the claimant. Disciplinary Authority has clearly observed that cash of Rs. 36,000/- received by the charge sheeted employee / workman (CSE) on 30.05.2011 from Sri Sushil Kumar Choudhary was not deposited in his CKCC account on 30.05.2011. The argument of defence has that this account was Rs. 36,000/- was credited in the CKCC account of depositor on 14.06.2011. It is further asserted that on perusal of the defence Ext.-ix (DEX-IX) the disciplinary authority observed that as on 14.06.2011 expected closing balance (excluding balance in Vault) was Rs. 36,000/- and account actual to Vault was 24,79,251/- and amount actually transferred to vault was 24,43,251/-. This amount transferred to vault by less Rs. 36,000/-. This amount of Rs. 36,000/- credited on 14.06.2011 in CKCC account no.- 2241733201 was superfluous entry which was further reversed and corrected on 06.08.2011 which was evident from management Ext. (MEX-V). It is further asserted that defence Ext. (DEX-X) that link was regular and system of the branch was also working properly and the management Ext. (MEX-3) clearly shows the voucher was being posted by the CSE / workman. It is further asserted that the disciplinary proceeding has been conducted by the management following the principles of natural justice. After issuance of memo of charge, the claimant /workman (CSE) filed his show cause and during enquiry the claimant was given adequate opportunity to cross examine the management witness and to rebut the management documents and thereafter, he was also given opportunity to adduce his evidence. It is further asserted that the claimant has brought on record 15 defence documents but he did not produce any witness. It is further asserted that the claimant has wrongly say that the management initiated a delayed departmental proceeding as it was initiated during the service period of the claimant as such there is no illegality in such initiation. It is further asserted that the claimant of the claim is misleading about clause 19.5(j) of the DAP dt- 10.04.2002 i.e nothing but a typographical error that does not mean the order of dismissal passed is beyond the settled regulation of DAP. It is further asserted that it was duty of the claimant to make entry in the CBS system of the bank, when he received deposit of Rs. 36,000/- from the depositor. The findings of the enquiry officer clearly shows that how such entry was not made and on complaint being made by the depositor on 14.06.2011, the bank credited the loan account of the depositor of Rs. 36,000/- which was although received by the claimant on 30.05.2011 itself. It is further asserted that among several deposit and withdrawal only one deposit was left by the claimant which was a deliberate effort. Accordingly the claimant of the claim is fit to be dismissed.

5. On the basis of rival pleadings the following issues has to be adjudicated

- (i) “ Whether the punishment as imposed by the management against the workman dismissal from his service is fair, legal and justified?
- (ii) “ What other relief the workman is entitled to?”

6. In order to establish this claim the workman side examined only one

Witness namely i.e Sri Bimal Chandra Mishra as W.W-1 the workman himself. Besides oral evidence some documents has been filed by the workman side and the same is marked exhibited as:-

- | | | |
|-----|-----------|--|
| (a) | Ext.-W- | Voucher of 30.05.2011 in the name of Sri Sushil Kumar Choudhary to amount of Rs. 36,000/-. |
| (b) | Ext.-W/1- | Entries of dt-30.05.2011 in transfer entries book. |
| (c) | Ext.-W/2- | Photo copy of cash balance register dt-30.05.2011. |
| (d) | Ext.-W/3- | CBS System of ZL on line report dt-30.05.2011. |
| (e) | Ext.-W/4- | Final order of Appellate Authority dt-01.02.2016. |
| (f) | Ext.-W/5- | Photo copy of attendance register dt-13.06.2011, 14.06.2011 and 15.06.2011 |

7. On the other hand in support of his claim, the management / bank examined one witness namely Sri Bimlesh Kumar as M.W-1 and besides oral evidence some documents are filed by the management side and marked the same as Exts. That is a under:-

1. Ext.-M & M/1- Photo copy of deposit slip of customer of Sushil Kumar Choudhary of dt- 30.05.2011 and 14.06.2011 respectively.
2. Ext.-M/2- Cash Transfer report of dt- 30.05.2011 issued from Central Bank of India, Head Office, Bombay.
3. Ext.-M/3- Statement of transaction of dt-30.05.2011 of Central Bank of India, Singhwara Branch.
4. Ext.-M/4- Photo copy of entries of the pass book of Sushil Kumar Choudhary of dt- 30.05.2011.
5. Ext.-M/5- Photo copy of complaint petition filed by the depositor Sushil Kumar Choudhary.
6. Ext.-M/6- Charge sheet of alleged witness filed by the bank on dt-03.11.2014 as drawn against Bimal Chandra Mishra.
7. Ext.-M/7- Letter of dt- 15.11.2014 issued by enquiry officer Sri Anil Kumar with enquiry proceeding stating from 22.11.2014 to 02.06.2015 i.e in the pen of signature of enquiry officer Sri Anil Kumar.
8. Ext.-M/8- Enquiry report dt- 18.06.2015.
9. Ext.-M/9- Administration order dt- 06.08.2015 final order issue by the disciplinary authority.
10. Ext.-M/10- Order of Appellate Authority dt-01.02.2016.

8. First of all this tribunal scrutinizes the evidence of workman W.W-1 Bimal Chandra Mishra who stated before this tribunal that he joined Central Bank of India, Singhwara branch upon transfer from Koila Asthan branch in the year 2010. He joined as a head cashier. This witness further stated that the singhwara branch started working in CBS system from the end of 2010. This witness further stated that he was in practice of working in computer system at koila asthan branch but he had to work in CBS system at singhwara branch for which he was not so much conversant to the system. Moreover, no training to work in CBS system is given. This witness further stated that he found the work of customer was taken in CBS system and then its accounting was maintained manually in to the cash department that's why there was some difference in cash between CBS system and manually accounting from very beginning. This witness further stated that the work of deposit and withdrawal was a duty of SWOA at the counter, since there was only one SWOA the singhwara branch on 30.05.2011. He sat on the cash counter. This witness further stated that the deposit amount was used to scroll in deposit register of the bank. On that very day he was making entry of the deposited amount in deposit register. This witness further stated that after banking hour one customer Sushil Kumar Choudhary has given Rs. 36,000/- for credit in CKCC account no.- 2241733201. He was under impression the amount given by Sushil Kumar Choudhary is of loan payment then he made entry in the cash register at serial no.-8 and thereafter, he started counting the cash, what ever the cash balance on 28.05.2011 he found, he added the deposited amount of 30.05.2011 and also add the amount he made entry at no.-8 of the scroll and he handover all the vouchers and cash to the officer Sri Triloki Nand Choudhary vault for its verification that's why, by mistake he could not make entry of Rs. 36,000/- (the entry of scroll-8) in CBS system. This witness further stated that officer Sri Choudhary verified the cash balance on that very date. Since the entry of Rs. 36,000/- already maintained in cash deposit register there was no excess cash left to him. This witness further stated that the verification of excess cash used to reflect by GL within 24-48 hours. This is the duty of the verification officer to check the vouchers and its posting and if officer finds excess cash and it has to be intimated by the officer himself. This witness stated that wrong charge sheet has been drawn against him under clause 19.5(J) of DAP. This witness further stated that he has shown the physical excess of amount Rs. 39,000/- of dt- 30.05.2011 to the Appellate Authority through the register, Rs. 36,000/- was of the customer Sudhir and another Rs.3000/- was of another customer the old lady that was debited from her account. When the difference of Rs. 3000/- was found, he has given 3000/- Rs to vault tellor officer who made entry in the system. This witness further stated that he received charge sheet in the year 2014 after three years of the alleged incident. This witness further stated that he had raised the matter about the excess amount Rs. 36,000/- before the Disciplinary Authority, who reported bank was closed with less of Rs. 36,000/- on 14.06.2011 for which he is liable. However, he was on leave on 14.06.2011. In spite of all pleading taken by him disciplinary authority has dismissed him wrongly without any proof. This witness further stated that vigilance officer Mr. Rajesh Sexana has taken his statement and inspected the matter on that basis the appellate authority told he has recommended to turn down the dismissal order but dismissal order is remained effective. This witness further stated that bank was never in financial loss of Rs. 36,000/- because cash Rs. 36,000/- is very much in safe of the bank but yet bank has deducted Rs. 57302/- including interest from the gratuity. This witness further stated that bank still did not deposit the 36,000/- Rs. In the account of the said customer. This witness further stated that his dismissal is quite wrong that should be set aside and bank should pay eight months salary and his post retiral benefits.

In cross-examination this witness categorically stated in para-10 that his employee code is 55008. This witness admits in cross-examination that on 30.05.2011 he was working at cash counter and he made 55 entries in system on that day but he categorically denied that he deliberately did not make entry of Rs.36,000/- received from the

Sushil Kumar Choudhary in system. In para-15 of the cross-examination this witness categorically stated that after collecting the vouchers in a bunch then its posting was made in CBS system. In para-16 of the cross-examination this witness admits that he was not making entry of deposit in CBS system at once. He used to load entry of all the deposit slips in CBS system at a time. In para-18 this witness categorically denied that he has not reported the case of old lady earlier. In para-20 this witness categorically denied that he has kept Rs.36,000/- received from Sushil Kumar Choudhary. In para-23 this witness admits that if the entry of in amount is not made in CBS system then that amount will be excess amount in cash balance. Further this witness denied this facts that he deliberately did not make entry of the said received money in CBS system for which department has given correct punishment.

9. Now this tribunal scrutinizes the evidence of management witness namely M.W-1 Vikesh Karn. Who stated before this tribunal that he is posted as a manager H.R department in Regional Office, of Central Bank of India, Darbhanga. This witness also stated that Bimal Chandra Mishra was posted as head cashier in Singhwara branch of Central Bank of India in the year-2011, who also has a good experience of working on computer. This witness further stated that on 30.05.2011 one customer Sushil Kumar Choudhary deposited Rs.36,000/- in his CKCC account. The deposit amount was received by the Bimal Chandra Mishra. This witness further stated that on 14.06.2011 the same customer came to branch to deposit Rs.10,000/- in his CKCC account and he did not find the entry of earlier deposited Rs. 36,000/- in his account then he made complaint. This witness further proved the photo copy of customer copy of deposit amount Rs.36,000/- of 30.05.2011 and photo copy of customer copy on dt-14.06.2011 amounting Rs. 10,000/- that is marked as Ext.- M & M/1 respectively. This witness further proved the bank copy of deposit of Rs. 36,000/- of dt- 30.05.2011 by Sushil Kumar Choudhary as marked as Ext.- M/2. This witness further stated bank has produced the details of all transaction of dt- 30.05.2011 this statement is in seven pages in which the deposit of Rs.36,000/- as made by Sushil Kumar Choudhary on 30.05.2011 is not shown further and this witness proved the cash transaction statement of dt- 30.05.2011 as marked Ext.-M/3. This witness further stated that there is initial of the clerk over the deposit slips produced by the bank i.e Ext.- M & M/1, M/2 but he can not say the name the clerk who signed on the voucher. This witness further proved the photo copy of the pass book of customer Sushil Kumar Choudhary bearing account no.- 2241733201 in which there is no entry of Rs. 36,000/- on dt-30.05.2011 i.e marked as Ext.-M/4. This witness further stated that when the Sushil Kumar Choudhary did not find entry of his deposit amount in his account then he filed a complaint. This witness proved the photo copy of complaint given by the Sushil Kumar Choudhary in the Regional Office i.e marked as Ext.-M/5. This witness further stated that Bimal Chandra Mishra has been transferred to the Hanuman Nagar branch and on 03.11.2014 he was serving in hanuman nagar branch. This witness further stated that on 03.11.2014 bank has served a charge sheet to Bimal Chandra Mishra and this witness further proved the charge sheet dt- 03.11.2014 along with list of document and witness list i.e marked as Ext.- M/6. This witness further stated that domestic enquiry was initiated against the Bimal Chandra Mishra from 15.11.2014 and it was concluded on 02.06.2015. The enquiry was conducted by Anil Kumar and he proved the enquiry proceeding that is in pen and signature of Anil Kumar i.e marked as Ext.- M/7. This witness also stated that the officer Anil Kumar never worked with him. This witness further proved the enquiry report submitted by enquiry officer Sri Anil Kumar on 18.06.2015 i.e marked as Ext.-M/8. This witness further proved the final order of disciplinary authority dt- 06.08.2015 along with the administrative order i.e given by U.N.Giri the disciplinary authority i.e marked as Ext.- M/9. This witness further prove the order of the Appellate Authority dt-01.02.2016 in which the Appellate Authority (DGM) confirmed the order of the disciplinary authority i.e marked as Ext.- M/10.

In cross-examination this witness admits in para-23 that he was posted in Singhwara branch for only three days but he does not remember the dates of his posting. In para-25 of the cross-examination this witness categorically stated that Central Bank adopted the CBS system from 2009-10. In para-27 this witness categorically stated prior to joining in Central Bank in the year-2013, he was not aware about the working system of Central Bank. In para-29 of the cross-examination this witness proved the voucher dt-30.05.2011 that is deposit voucher of Rs.36,000/- i.e marked as Ext.-W. This witness further stated that there is no register like transfer book entry is maintained in the bank. In para-31 of cross-examination this witness admits that the documents filed by the workman showing the two pages of transfer book register of dt-30.05.2011 is the document of his bank and he proved the document i.e is marked Ext.-W/1. This witness also admits that the entry of Rs. 36,000/- is shown at serial no.-8 of document marked as Ext.-W/1. In para-33 of the cross-examination this witness admits that bank maintains the cash balance register and he proved the copy of cash balance register of dt-30.05.2011 i.e marked as Ext.-W/2. In para-34 of cross-examination this witness admits that the G.L on line report of dt-30.05.2011 as shown to him i.e not complete and he proved the on line GL report of dt.-30.05.2011 i.e marked as Ext.-W/3. In para-36 of cross-examination this witness categorically stated that bank working was in CBS system in the year 2011-12 but he can not say how the bank working was conducted if CBS system fails. In para-37 cross-examination this witness categorically stated that the documents as shown by the workman side is the order of Appellate Authority on page-20 in which the last line of the report its written cash of the dt-i.e 30.05.2011 was closed on basis of manual cash receipt payment register and CBS cash balance was not taken. This finding of the Appellate Authority is prove i.e marked as Ext.-W/4. This witness admits that in para-38 of cross-examination if by mistake any entry is not made in any account that can be corrected on the basis of the complaint. This witness categorically admits in para-39 he cannot say whether the cash closing of singhwara branch on dt-30.05.2011 was made on the basis of manual or CBS system. In para -40 of this cross-examination this witness further proved the copy of the attendance register dt-13.06.2011, 14.06.2011 and 15.06.2011 produced by Bimal Chandra

Mishra i.e marked as Ext.- W/5. This witness also admits that Bimal Chandra Mishra is absent on 14.06.2011 as per attendance sheet. This witness also stated in cross-examination that he cannot say the departmental proceeding initiated against the workman was from 30.11.2014 and he further denied the workman has committed any wrong on 30.05.2011 as deposited amount is in the bank record and the deposited amount of the said date is in the bank entry.

10 It is argued on behalf of the workman that the alleged irregularity was set to be committed to the bank on 30.05.2011 but the departmental proceeding was initiated after more than three years after issuance a charge sheet on 03.11.2014. Delayed initiating of departmental proceeding without giving any explanation is bad in law and it is against the principle of natural justice. Moreover, domestic enquiry conducted by the enquiry officer is wholly perverse, erroneous and based on mechanical facts. Enquiry officer did not consider the management exhibits as well as defence exhibits in right prospective and arrived on wrong findings. It is further argued that during the departmental enquiry on the day of 9th sitting the management witness Sri Anil Kumar clearly accepted that the amount Rs. 36,000/- has been received by the workman i.e shown at serial no.-8 i.e related with the account of Sri Sushil Kumar Choudhary and the witness also admitted that the closing balance of 30.05.2011 was Rs. 23,22,103/- including the Rs. 36,000/- but enquiry officer did not consider the evidence of management in right prospective. It is further argued that the Disciplinary Authority has not considered the facts that workman received the cash which is reflecting in cash receipt book at serial no.-8 of cash register. It is also argued that there was no shortage of cash on 30.05.2011. The document produced by the management side and as well as by defence side show that the received cash on dt-30.05.2011 is in the chest of the bank. It is further argued that after punishment order dt- 23.06.2015 the workman made complaint before the Disciplinary Authority (AGM), Dharbhanga on 11.07.2015 and also to the Appellate Authority-cum-Zonal Manager, Patna on 11.01.2016 stating all the facts with regard to non-consideration of the evidence and documents by enquiry officer i.e established by the Exts of workman side Ext.-W to W/5 i.e proved by the management witness before this tribunal but disciplinary and appellate authority did not consider it. It is further argued that the Appellate Authority also clearly mentioned in its order that cash of the day of dt-30.05.2011 at Singhwara branch was closed on the basis of manual cash receipt payment register and CBS cash balance was not taken and i.e also admitted by the management witness before this tribunal but without discussing the point raised by the workman the disciplinary authority and appellate authority has passed a perverse order and no reason is assigned for upholding the dismissal order i.e against the principle of natural justice. It is further argued that the workman has thoroughly corroborated his case before this tribunal through his evidence. However, the management side neither produced the enquiry officer nor presenting officer before this tribunal to establish the enquiry conducted by the enquiry officer was just and fair rather management witness who deposed before this tribunal formally proved the enquiry proceeding and report of enquiry officer and simultaneously accepted this facts that the never worked with the enquiry officer during his tenure. It is also argued that the charge and followed by enquiry conducted by enquiry officer was not fair and proper and thereafter imposing a major punishment is totally bad in law.

11. It is argued on behalf of the management that upon detection of irregularity committed by the workman Sri Bimal Chandra Mishra on 30.05.2011 as Bimal Chandra Mishra after receiving amount of Rs. 36,000/- from one customer Sri Sushil Kumar Choudhary but not credited in the CKCC account of the said customer by workman for which charge sheet was issued to the workman on 03.11.2014 for the departmental proceeding. It has been further argued that departmental proceeding has been thoroughly conducted by the enquiry officer giving ample opportunity to the workman to defend his charges but workman failed to disprove the charges as levelled against him and finally the enquiry officer found guilty the workman for not crediting the received amount of Rs. 36,000/- in the CKCC account of customer of Sushil Kumar Choudhary. It is further argued that on the basis of the enquiry report the workman has placed his contention before the disciplinary authority but disciplinary authority also did not find any infirmity in the of the enquiry officer and there by passed the dismissal order against the workman Sri Bimal Chandra Mishra that was upheld by the appellate authority after securitizing the plea taken by the workman. It is further argued that the management side has placed the enquiry proceeding register i.e (Ext.-M/7), enquiry report of the enquiry officer of dated- 18.06.2015 i.e (Ext.-M/8) and final order dt- 06.08.2015 i.e (Ext.-M/9) and order the appellate authority dt-01.02.2016 i.e (Ext.-M/10) in support of management version. It is also argued that the one witness from the management side namely Sri Bikesh Karn the manager, working in HR department of Regional Office of Central Bank of India also supported the management version before this tribunal accordingly the imposed the punishment of dismissal from the service of the workman Bimal Chandra Mishra is totally fair, legal and justified.

12. Considering all the facts & circumstances of the case and on securitizing the material available on the record as discussed above and the submissions as advanced on behalf of the both sides, this tribunal finds that Bimal Chandra Mishra (workman) was working in the Singhwara Branch of Central Bank of India as a Cashier. This tribunal further finds that while working in bank on 30.05.2011 this workman had received Rs. 36,000/- cash from one customer Sushil Kumar Choudhary for his CKCC account but it could not be entered in CBS system but the transaction amount was well maintained by the workman in cash balance register dt- 30.05.2011 along with other entries i.e (Ext.-W/2) i.e well admitted by the management witness namely Bikesh Karn during the course of the cross-examination. This tribunal find that the management also admitted this facts that the appellate authority in his order has mentioned that the bank cash of day of dt-30.05.2011 (alleged incident date) was closed on the basis of manual cash receipt payment register and the CBS cash balance was not taken. This findings is shown in the order of the appellate authority i.e (Ext.-W/4). This tribunal find that the alleged allegation against the workman for not crediting the amount of Rs.

36,000/- in the CKCC account of customer Sushil Kumar Choudhary is completed by the manager of the bank by entering the amount in the CKCC account of Sushil Kumar Choudhary on 14.06.2011 finding the said amount was not credited in the account of workman by mistake. This tribunal further finds that on 14.06.2011 the workman was on leave i.e. proved by the workman vide Ext.-W/5. This tribunal further finds that enquiry conducted by the enquiry officer Sri Anil Kumar did not follow the right procedure of conducting the enquiry and also did not appreciate the defence version recorded by the enquiry officer himself during the course of the proceeding i.e. evident from (Ext.-M/7). Enquiry proceeding register shows that enquiry officer inquired the representative of the defence only and never gave opportunity to workman to produce any witness during the course of enquiry. Moreover this tribunal further finds that bank manager of the Singhwara Branch never made any complaint for the alleged incident of dated 30.05.2011 as shown by the management and moreover there is no FIR lodged from the management bank for the alleged irregularity committed by the workman as claimed by the management, why the bank did not register the FIR against the workman reasons best known to the management bank. This tribunal further find that virtually bank found that there has no physical loss of money accrued to the bank, that's why bank could not surface the alleged irregularity for three years before sending a charge sheet to the workman on 03.11.2014. This tribunal further find no reason assigned by the bank management for initiation of departmental proceeding after long gap of more than three years without holding a preliminary enquiry on this aspect is completely violation of principle of natural justice. This tribunal further finds that the management side did not produce any authentic witness before this tribunal that could satisfy the claim of the management rather bank just produced a formal witness who never worked with the workman and with the enquiry officer as well as presenting officer because the management witness himself admitted before this tribunal he joined the Central Bank of India in the year 2013. This tribunal further finds the workman side thoroughly proved his version the received amount of Rs. 36,000/- from a customer Sushil Kumar Choudhary on 30.05.2011 was within custody of bank's cash chest that is evident from the entry cash balance register of dt-30.05.2011 i.e. (Ext.-W/2). This tribunal further finds that management side has been failed to discard the testimony of workman before this tribunal. This tribunal further find that on the basis of defective departmental proceeding as conducted by the enquiry officer, the finding of enquiry officer and order of disciplinary authority and appellate authority was not correct and proper. This tribunal further finds that the workman was on the verge of retirement at the time of passing final order there was no adverse remarks against the workman (Bimal Chandra Mishra) for his services given to the bank earlier but the bank management did not consider its and imposed major punishment of dismissal from the service is not fair, legal and justified. Thus on the scanning of all the materials available on the records as discussed above this tribunal finds and hold that the imposing of punishment of dismissal from the service of the workman (Bimal Chandra Mishra) is not fair, legal and justified.

13. The case record shows that the workman has already retired from the service on 31.03.2016. Accordingly bank is directed to make payment of retrial benefits and the salary accrued from 06.08.2015 when the dismissal order was passed by the bank management till the retirement of the workman dt-31.03.2016 within the two month's after publishing / gazette of award. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1548.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खास कजोरा कोलियरी ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 03/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/96/2015-आईआर(सीएम-II)]

मणिकंदन एन, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of Khas Kajora Colliery E.C.L. and their workmen, received by the Central Government on 13/09/2023

[No. L-22012/96/2015-IR (CM-II)]

MANIKANDAN, N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 03 OF 2016

PARTIES: Birendra Kumar Nonia

Vs.

Management of Khas Kajora Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, Adv.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 04.08.2023

AWARD

In exercise of power conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/96/2015-IR(CM-II)** dated 23.12.2015 has been pleased to refer the following dispute between the employer, that is the Management of Khas Kajora Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the Agent, Khas Kajora Colliery of M/s. ECL is illegal denial of employment to Shri Birendra Kumar Nonia, son of late Ramdeo Nonia is legal and justified. If not, what relief the workman is entitled to? ”

1. On receiving Order **No. L-22012/96/2015-IR(CM-II)** dated 23.12.2015 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 03 of 2016** was registered on 08.01.2016 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Birendra Kumar Nonia, son of the deceased workman Ramdeo Nunia and filed a written statement on 16.03.2016 through the President of Koyala Mazdoor Congress. The crux of the partitioner's case is that Ramdeo Nunia was a permanent employee under ECL and was posted as a Security Guard at Khas Kajora Colliery of ECL. Ramdeo Nunia died on 15.10.1995 while he was inservice. The wife of the deceased employee Smt. Ahilya Devi applied before the company for her employment but the prayer was disallowed on the ground that she was more than forty-five (45) years of age on the date of her husband. It is contended that the company did not refer the wife of the deceased employee for assessment of her age by the Medical Board. Referring to the provisions of Implementation Instruction No. 76 (hereinafter referred to as II No. 76) it is claimed that the wife should have been sent for medical examination for determination of her age. The management instead of determining the age of the wife offered her monetary compensation in lieu of employment, which she refused. The wife of Ramdeo Nunia thereafter applied for providing employment to Birendra Kumar Nonia, her son and submitted relevant documents. It is claimed that according to the Clause 9.5.0 (iii) of National Coal Wage Agreement - V (hereinafter referred to as NCWA - V) the name of the son can be kept in the Live Roster till the son attains the age of eighteen (18) years and the wife of the deceased is entitled to get monetary compensation till employment is given to the dependent son. It is contended that the provisions of NCWA have not been followed as the age of the dependent was not decided by the Initial Medical Examination (hereinafter referred to as IME) and his prayer for employment was rejected in illegal manner.

3. According to the dependent of the deceased employee after receiving the proposal for employment for the son, management rejected the claim on the plea that the dependent son was below eighteen years of age. According to II No. 76, dependent son should be medically examined and his age should be decided by the IME Board as per Medical Jurisprudence and if he is a matriculate then the age recorded in the Matriculation Certificate should be accepted, but in the instant case the guidelines issued by the Joint Bipartite Committee for the Coal Industry (hereinafter referred to as JBCCI) was not followed and the management deliberately denied the dependent son's claim for employment. It is urged that the son of Ramdeo Nunia has no source of income and should be provided employment in place of his father under the Clause 9.5.0 (iii) of NCWA – V and other consequential benefits.

4. The management of Khas Kajora Colliery of ECL filed their written statement on 15.11.2016 denying the claim for employment of Birendra Kumar Nonia. The management contended that the provisions of NCWA – V was in force when Ramdeo Nunia died on 15.10.1995. According to the Clause 9.3.1 of NCWA – V : “*Employment would be provided to one dependent of the worker who are disabled permanently and also those who die while in service.*” Clause 9.3.2. provided that : “*Employment to one dependent of the worker who dies while in service. In so far as female dependents are concerned, their employment / payment of monetary compensation would be governed by para 9.5.0.*” Management admitted that Smt. Ahilya Devi, the widow applied for compassionate appointment but she could not be given employment as she was more than forty-five (45) years of age. Subsequently, she applied for employment of her son Birendra Kumar Nonia, who was not eligible for employment on the ground of being underage i.e. twelve (12) years and six (6) months at the time of death of his father. The widow of the deceased employee then applied for monetary compensation and received monetary compensation till 2011, when she attained sixty (60) years of age. The family of the deceased employee has no right for further employment and the Industrial Dispute raised on behalf of the dependent of the deceased is liable to be dismissed.

5. Birendra Kumar Nonia in support of his case filed an affidavit-in-chief wherein he stated that the management did not assess the age of his mother, which should have been done according to the NCWA and II No. 76 issued by the Coal India Limited (CIL). It is also contended that the management refused to provide employment to him on the plea that he was below eighteen years of age at the time of death of his father. Since his age was not decided by the IME Board, the management violated the provisions of Bipartite agreement for the purpose of rejecting his claim for employment. No document has been brought on record on behalf of the dependent of the deceased workman. In course of cross-examination workman witness – 1 deposed that he was a student of Class VII in Khas Kajora High School and was sixteen years old as per school certificate at the time of death of his father. The witness stated that his date of birth as 26.01.1980 but he did not produce any certificate regarding his date of birth at the time of evidence nor did he submit any document before the management while claiming his employment.

6. The management in support of their case examined Mr. Praloy Dasgupta, Manager (Personnel) at Khas Kajora Colliery of ECL as Management Witness – 1. In his affidavit-in-chief the witness stated that Smt. Ahilya Devi, the widow who applied for employment on compassionate ground but was not found eligible as she was overage, more than forty-five years. The widow of the deceased employee applied for employment of their son Birendra Kumar Nonia and he too was found ineligible for employment as he was about twelve years and six months of age at the time of death of the ex-employee. Further case of the management is that since Smt. Ahilya Devi was paid maintenance allowance in lieu of employment, no dependent of the deceased was entitled to any employment. The documents produced by the management are marked as Exhibit M-1 to M-6 and ‘x’ for identification. A Copy of letter dated 20.02.1998 issued by the Chief Personnel Manager to the widow of Ramdeo Nunia related to payment of maintenance allowance of Rs.2000/- per month in lieu of employment has been marked as Exhibit M-1, in that letter it is further communicated that since Smt. Ahilya Devi had crossed the outer age limit of forty-five years, she was only eligible to monetary compensation under NCWA - V, which will continue till her attaining the age of superannuation or death. A copy of letter dated 27.07.2001 issued by Smt. Ahilya Devi addressed to the Agent of Khas Kajora Colliery of ECL has been marked as Exhibit M-2, in the said application she prayed for employment of her son. Exhibit M-1 and Exhibit M-3 are the same document. A copy of letter dated 03.08.1998 issued by the Deputy CME / Agent of Khas Kajora Colliery of ECL addressed to Smt. Ahilya Devi has been marked as Exhibit M-4. In that letter it is communicated that she has crossed the upper age limit of forty-five years therefore she has been granted Rs.2,000/- per month as maintenance allowance. A copy of claim for maintenance allowance at the rate of Rs.3,000/- per month from 03/1996 to 02/2004, in favour of Smt. Ahilya Devi has been produced as Exhibit M-5. A copy of claim for monetary compensation dated 01.09.2011 for the month of 08/2011 has been marked as Exhibit M-6. In course of cross-examination the Management witness admitted few documents produced on behalf of the workman. The Manager of Khas Kajora Colliery of ECL by their letter dated 21.08.2001 asked Birendra Kumar Nonia to appear before the Screening Committee on 29.08.2001 for the purpose of his employment, the letter has been admitted as Exhibit W-1. A copy of the report of the Screening Committee in respect of Birendra Kumar Nonia dated 30.08.2001, in three pages has been collectively admitted as Exhibit W-2.

7. It is now apposite to consider the fact of the case in the light of the evidence adduced by parties. Mr. Rakesh Kumar, Union representative argued that according to the Screening Committee’s report (Ext. W-2) Birendra Kumar Nonia was nineteen years of age at the time of assessment of his age on 30.08.2001. According to the provisions of II No. 76, the age of Birendra Kumar Nonia ought to have been assessed by the IME Board for his employment but in the present case the management violated the provisions by not assessing his age. It is further argued that according to the Colliery Screening Committee report the committee recommended for employment of Birendra Kumar Nonia in place of Ramdeo Nunia but no further action was taken for providing employment.

8. Mr. P. K. Das, learned advocate for the Management in reply argued that Smt. Ahilya Devi, the wife of the deceased employee was more than forty-five years at the time of death of her husband and she was not eligible for her employment according to the provisions of Clause 9.4.0 (iv) of NCWA - V where it is stated that woman up to the age of thirty-five years would be eligible for employment. It is further argued that according to the Service Record Excerpt (SRE) of the ex-employee Birendra Kumar Nonia was five years of age on 01.04.1987 and he was less than fifteen

years of age at the time of his father's death. Therefore, under Clause 9.5.0 (iii) of NCWA - V which was applicable till 30.06.1997 his name could not be maintainable in the live roster for providing employment. It is argued that Birendra Kumar Nonia is not entitled to employment according to the provisions of NCWA - V and the present case is liable to be dismissed.

9. It is admitted and agreed between the representatives of the employer company and the workman and laid in Clause 9.3.1 of NCWA - V that employment would be provided to one dependent of workers who are disabled permanently and also to those who die while in service. In Clause 9.3.2 it is provided that in case of female dependent employment / payment of monetary compensation would be governed by Para 9.5.0. On a reading of the provisions in Clause 9.4.0 (iv) it is gathered that the dependents to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as provided in Clause 9.5.0. In case where a female dependent is below the age of 45 years, she will have the option either to accept 9.5.0 (ii) of NCWA - V provides that if the female dependent is above forty-five years of age she will be entitled only to monetary and not employment.

10. In the case under consideration Smt. Ahilya Devi admittedly applied for employment soon after the death of her husband. The management witness in his evidence stated that the prayer for employment of Smt. Ahilya Devi on compassionate ground was not considered as she was more than forty-five years of age. An application of Smt. Ahilya Devi addressed to the Deputy CME/Agent of Khas Kajora Colliery of ECL on 27.07.2001 (Exhibit M-2) reveals that she applied several times for providing employment to her as her son was underage. In letter dated 20.02.1998 (Exhibit M-3) the management of ECL informed Smt. Ahilya Devi that she had crossed her age limit of forty-five years and she was only eligible for monetary compensation. This finding in my view has no foundation as Smt. Ahilya Devi was not referred to any Medical Board for assessment of her age. Her age was neither assessed nor verified by any Medical Board or any colliery officer according to II No. 76. If we refer to Exhibit W-2 which is a report of the colliery screening committee it would appear that three officials i.e. Agent, Senior Account Officer, and Senior Personnel Officer of Khas Kajora Colliery of ECL on their satisfaction and eye estimation had assessed and determined the age of Smt. Ahilya Devi, wife of Ramdeo Nunia as thirty-four years as on 01.04.1987. This would imply that at the time of death of her husband on 15.10.1995 her age would be less than forty-three years and by no stretch of imagination the management of the company could have considered her age as more than forty-five years to deprive her legitimate claim for employment, having four minor children at the time of her husband's death. The decision of the management of the ECL compelling Smt. Ahilya Devi to accept monetary compensation and denying employment to her on the ground that she crossed forty-five years of age (Exhibit M-1) was unfounded, arbitrary and unlawful.

11. The screening committee report (Exhibit W-2) disclosed that when monetary compensation was offered to Smt. Ahilya Devi, she did not agree to accept the same and again requested for employment. After her son attained majority, she prayed for employment of her son Birendra Kumar Nonia and his sisters gave "no objection" in his favour. According to the Service Record Excerpt of the deceased, Birendra Kumar Nonia was fourteen years of age at the time of death of his father. No document in support of his date of birth or age of Birendra Kumar Nonia was produced before the management. Under such circumstances the management of the company ought to have taken recourse of II No. 76 for the purpose of assessing the age of an illiterate person for considering him for employment. The colliery screening committee in 2001 have recommended employment of Birendra Kumar Nonia. Having full understanding of provisions of NCWA - V where in Clause 9.5.0 (iii) it is provided that :

"In case of death either in mine accident or for other reasons or medical unfitness under clause 9.4.0, if no employment has been offered and the male dependent of the concerned worker is 15 years and above in age he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependent is on live roster, the female dependent will be paid monetary compensation as per rates at paras (i) & (ii) above."

From the relevant provision I find that the female dependent has option to accept either monetary compensation or employment. In this case Smt. Ahilya Devi did not opt for accepting monetary compensation and the same is evident from the report of the screening committee. Such decision of payment of monetary compensation was thrust upon her and cannot be used against her that such acceptance of monetary compensation has disqualified her from claiming employment.

12. According to the provisions of Clause 9.5.0 (iii) of NCWA - V, the dependent son of the deceased workman should be than fifteen years and above in age so that his name is maintained in the live roster. The recorded age in the SRE reveals that he was less than fifteen years at the time of death of his father. The management having waived such requirement had considered the proposal for employment of the dependent son on his attaining majority and also recommended for his employment. In a case where the widow of the deceased who was within the eligible age limit was denied employment, Birendra Kumar Nonia, dependent son cannot be denied employment on the ground that he was underage i.e. below the age of fifteen years or that his name could not have been maintained in the live roster. It is just and appropriate to consider the case of Birendra Kumar Nonia for employment by way of assessing his age according to the II No. 76. In her application dated 27.07.2001 (Exhibit M-2) Smt. Ahilya Devi prayed for employment of her son on his attaining majority. The issue remained unresolved and the Colliery Screening

Committee recommended for employment of Birendra Kumar Nonia (Exhibit W-2) on 30.08.2001. Therefore, the delay caused is attributable to the management of ECL and the dependent of employee should not suffer for the conduct.

13. In view of my aforesaid discussion the action of the management of Khas Kajora Colliery of ECL in denying employment to Birendra Kumar Nonia is not found justified. The management of company is directed to consider the prayer for employment of Birendra Kumar Nonia, dependent son of the ex-employee and assess his age according to the provisions of Implementation Instruction No. 76 within two (2) months from the date of Notification of the Award. The Industrial Dispute is decided in favour of the dependent of the ex-employee.

Hence,

ORDERED

that an Award be drawn up in favour of Birendra Kumar Nonia, dependent of the ex-employee workman. The Management of Khas Kajora Colliery of ECL is directed to consider the prayer for employment of the dependent son of the ex-employee and assess his age according to the provisions of Implementation Instruction No. 76 within two (2) months from the date of Notification of the Award. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1549.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **कानपुर** के पंचाट (81/2002) प्रकाशित करती है।

[सं. एल-12025/01/2023-आईआर(बी-1)-21]

सलोनी, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1549.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 81/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kanpur* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12025/01/2023- IR(B-I)-21]

SALONI, Dy. Director

ANNEXURE

Before Shri Soma Shekhar Jena, Presiding Officer

Central Government Industrial Tribunal-cum-Labour Court

Kanpur

ID NO. 81 of 2002

In the matter of Industrial Dispute

Between

The General Secretary,

U.P. Bank karmchari Sangh,

45, A, Chandra Nagar, Lal Bangla,

Kanpur (U.P)-208007

Versus

The Regional Manager,

Punjab National Bank

Zonal Office, 94, Mahatma Gandhi Marg,

Lucknow (U.P)-0

Award

This award arises out of a reference issued by Government of India in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) as mentioned in notification no. **L-12011/168/2002-IR(B-II) dated 10.12.2002**. The reference is read as follows:-

“Whether the action of the management of Punjab National Bank in dismissing Shri Om Prakash Pandey from services w.e.f 15.1.2001 is legal and justified? If not, what relief is he entitled for?”

On behalf of the claimant workman the averments submitted before this Tribunal may be summarized as follows:-

Claimant workman was working as a group ‘D’ employee in the employer bank P.N.B H.A.L. branch. Claimant workman was suspended by the employer bank by letter dated 17.01.2000 which is Annexure-I. Later the employer bank, on the basis of aforementioned letter, lodged a case against the claimant on 18.01.2000 in Lucknow situated Gazipur, police station under section 406 and 420 of the Indian Penal Code. The case number was 20/2000. On the request of the claimant the enquiry of the case was delegated to special Anusandhan Branch, Kesar bagh, Lucknow. As a result of the enquiry the claimant workman was exonerated and 3 other employees of the branch were found guilty under section 406 and 420 of the Indian Penal Code in the case of 20/2000 though earlier the employer bank put all the blame only on the claimant workman.

In exasperation to the exoneration of delinquent workman, the claimant workman was charge sheeted with false allegations. Neither the charge sheet dated 15.09.99 for his alleged acts of gross misconduct committed by him was ever served upon him nor he was ever given opportunity to participate in any kind of disciplinary or departmental enquiry. Even the employer bank failed to produce any kind of evidence or witness support of the allegation served upon the claimant workman. The departmental/disciplinary enquiry of the employer bank was completely one sided and full of hostility and as a result of the biased enquiry worker was dismissed from his service without notice (dismissal without notice).

Workman further stated that all the allegations were false in nature and the allegations fell beyond the provisions of the Bipartite Settlement. The Charge sheet served upon him was illegal and against the provisions of the Bipartite Settlement. Claimant workman prayed before the Hon’ble Tribunal for quashing the order and reinstating him in service with back wages considering that the claimant workman was an employee of group ‘D’ category and belonging to economically weaker section of the society.

On behalf of employer bank (P.N.B) the averments made in its written statement can be concisely stated as follows:-

Sri Pandey (delinquent workman) while working as Peon at BO HAL Lucknow was served with a charge sheet dated 15.09.99 a copy of which is enclosed and marked as Annexure ME-1/1-ME-1/2. The claimant workman submitted his reply dated 21.01.99 to the said charge sheet which was not found to be satisfactory to the disciplinary authority. Accordingly vide order dated 26.10.99 departmental enquiry was initiated to look into the truthfulness of the allegations made vide charge sheet dated 15.9.99. The Enquiry Officer conducted enquiry in accordance with the principle of natural justice during which all reasonable opportunities were afforded to delinquent workman to present his case and to defend himself during enquiry by a representative of his choice. However, it is submitted that claimant workman with ulterior objective did not participate in the enquiry with the result, that the said enquiry was concluded ex-parte. The Enquiry officer submitted his report dated 13.04.2000 to the Disciplinary Authority with conclusions as charges proved. The Findings of the Enquiry Officer was sent to claimant workman vide letter dated 12.08.2000 to give his representation thereon. Claimant workman, however, did not submit any representation on the report submitted by the Enquiry Officer where after the Disciplinary Authority vide show cause notice dated 21.10.2000 proposed punishment of ‘dismissal without notice’ upon the claimant workman. He was also advised to appear for personal hearing on 18.11.2000. Further, since the claimant workman did not appear for personal hearing on 18.11.2000 without assigning any reason, the Disciplinary Authority adjourned the personal hearing to 25.11.2000 where after on the request of the workman, the personal hearing was adjourned to 13.1.2001. Claimant workman however, again did not appear for the personal hearing on 13.1.2001 and made yet another request for an adjournment. The same was not accepted and thereafter the disciplinary Authority, after considering the entire material on the record inflicted punishment of ‘dismissal without notice’ upon the claimant workman vide order dated 15.1.2001.

It is submitted that under the provisions of the Bipartite Settlement, workman employee has got a right to prefer an appeal within 45 days against the order passed by the Disciplinary Authority. It is stated that claimant workman did not prefer any appeal under the provisions of the Bipartite Settlement to the Appellate Authority and in view of this, it is submitted that the so called present reference made by the appropriate Government to this Hon’ble Tribunal is premature. Claimant workman was placed under suspension in the meanwhile, vide order dated 17.1.2000 for his alleged involvement in the fraud of Rs 18,000/- in one SF A/c No. 4049 at BO: HAL, Lucknow in respect of which an FIR was filed by the bank with Police Station Ghazipur, Lucknow. It is averred that the claimant workman was given the charge sheet dated 15.9.99 for his alleged acts of gross misconduct committed by him within the meaning of para 19.5 of the Bipartite Settlement. It is further denied that the punishment of “dismissal without notice” has been inflicted upon the claimant workman by the Disciplinary Authority by way of any connivance with one Shri

Uma Shankar Srivastava who was the defence representative of claimant workman in the departmental enquiry. As regards the departmental enquiry, it is reiterated that full opportunity was made available to claimant workman to defend himself. However for the reasons best known to himself, he did not avail the said opportunity.

The points to be answered in this proceeding are as follows:-

1. Whether the action of management of P.N.B in dismissing O.P Pandey (claimant) from services w.e.f 15.01.2001 is legal and justified.
2. Whether the reference as received in this tribunal without any effort by the claimant by preferring appeal is maintainable?
3. To what relief the claimant is entitled?

Point No.1

It is clear that the claimant at one stage before the charge sheet was employed as peon in the employer P.N.B in its branch. The charge sheet dated 15.09.1999 copy of which has been produced before this Tribunal contains 3 heads. The first component of the charge speaks that the claimant in December 1997 had received Rs 80,000/- from one Kamod Pathak giving assurance to him to arrange a plot of area 1250 sq.feet at Gomti Nagar then owned by Smt. Rekha. The component of the charge is based on the allegation that the claimant going beyond the sphere of work assigned to him was indulging in real estate business. Though it was alleged that the claimant was indulging in real estate business there is no adequate material before this Tribunal for concluding that the claimant was very often indulging in real estate transactions. There is no whisper that the claimant was thoroughly negligent in his duty in the bank. It is submitted on behalf of claimant that Kamod Kumar Pathak had only prayed for refund of amount of Rs 80,000/-

Though indulging in business outside the scope of duty without written permission of the bank can be read as gross misconduct an isolated instance of indulging in one real estate transaction cannot be reasonably read as gross misconduct. The second component of the charge dated 15.09.99 speaks that the claimant was forwarded by the police under accusation of offenses punishable under sections 147, 148, 323, 504, 506 of Indian Penal Code. It is stated that on 29.05.99 he had surrendered and was allowed bail on 31.05.99. It may be correct that the claimant had spent more than 24 hours in judicial custody. His actual role in the said alleged offenses punishable under sections 147, 148, 323, 504 and 506 of Indian Penal Code is not clear. The Third limb of charge speaks that on 07.07.98 the claimant had availed one consumer loan hiding one previous loan availed by him and the said previous loan liability came to light on 16.8.99 by O.D.D. It may be true that the claimant had availed the consumer loan of RS 25,000/- concealing the earlier liability. It was stated on behalf of claimant that the so called availing of the loan concealing the earlier liability may not be read as any act causing serious loss to the bank or an act prejudicial to the interest of the bank. In the bipartite settlement code of conduct to be followed by bank employees has been mentioned. The bank authority in their wisdom has formulated the code of conduct to be strictly followed by the bank employees without deviation. It may be correct that the dilution of code of conduct with extraneous interpretation is likely to cause devastating indiscipline leading to collapse of the banking industry but in the other hand it is also seen that even an employee found guilty of misconduct could be warned or censured or fined or could be awarded stoppage of increment or discharged or awarded dismissal without notice. It appears that the three components of the charge dated 15.9.99 cannot be strictly covered under clause 19.5.(a) and 19.5.(j) of Bipartite settlement governing the service of the bank employees.

At this point it is pertinent to state here the claimant submitted that he was not provided with the copies of the documents which formed the basis of charges. It may be correct that the copies of documents have to be provided to the delinquent for putting forth reasonable defence against the allegations made against him. From the nature of allegations brought against the claimant it is evident that the claimant had not suffered grave prejudice with non supply of copies of the documents and the list of the witnesses. Departmental enquiries are conducted on the principle of preponderance of probabilities. On the other hand it is seen that the claimant had participated in the departmental proceedings initiated by O.P management as revealed from the undisputed copies of papers. It is apparent that no substantial prejudice occasioned in the departmental enquiry conducted against the claimant. Law is well settled that this Industrial Tribunal may interfere with the order of dismissal of claimant workman when the same is shockingly disproportionate. It is also clear that the claimant had not preferred appeal before the designated appellate authority of employer bank which could have given opportunity to revisit the correctness of the findings and reasonableness and proportionality of the punishment awarded to the claimant. Since no appeal was preferred the reference proceeding is otherwise questionable exercise. A long period has elapsed after the order of dismissal without notice. The whole blame of the situation leading the claimant to go without work cannot be cast on the P.N.B management as the claimant had not preferred appeal before the designated appellate authority. In the scenario his dismissal without notice though not fully justifiable, reinstatement with full back wages also appears to be highly improper. It is also well settled in law whenever dismissal is found to be shockingly disproportionate reinstatement with full back wages cannot be automatically granted.

In the case of **J.K Synthetics Ltd. vs K.P.Agrawal (2007) 2 SCC 433** it is observed by Hon'ble Supreme Court that "*But the manner in which "back wages" is viewed, had undergone a significant change in the last two decades. They are no longer considered to be an automatic or natural consequence of reinstatement. We may refer to the latest of a series of decisions on this question. In U.P State Brassware Coprn. Ltd. V Uday narain Pandey [(2006) 1 SCC 479: 2006 (L&S)250], this Court following Allahabad Jal Sansthan v. Daya Shankar Rai [(2005)5 SCC 124: 2005 SCC 363 : 2005 (L&S) 270] held as follows: (Uday Narain Pandey case [(2006) 1 SCC 479: 2006 SCC (L&S) 250], SCC p 480-g)*

" A person is not entitled to get something only because it would be lawful to do so. If that principle is applied, the functions of an Industrial Court shall lose much of their significance.

Although direction to pay full back wages on a declaration that the order of termination was invalid used to be the usual result, but now, with the passage of time, a pragmatic view of the matter is being taken by the court realising that an industry may not be compelled to pay to the workman for the period during which he apparently contributed little or nothing at all to it and/or for a period that was sent unproductively as a result whereof the employer would be compelled to go back to a situation which prevailed many years ago, namely, when the workman was retrenched. The changes brought about by the subsequent decisions of the Supreme Court, probably having regard to the changes in the policy decisions of the Government in the wake of prevailing market economy, globalisation, privatisation and outsourcing, is evident."

The documents produced by the O.P. bank during domestic enquiry stated to have been issued by the Superintendent District Jail Lucknow and the paper cutting and the letter of communication issued by Learned Advocated Shyam Sunder Dayal Verma clearly proved with preponderance of probabilities that claimant Om Prakash Pandey had suffered detention in judicial custody under accusation of offences punishable under section 147, 148, 323, 504 and 506 of the Indian Penal Code. Claimant Om Prakash Pandey had surrendered on 29.05.1999 and was granted on bail. It appears that after release from judicial custody on bail the claimant had not informed his higher authorities about his detention in judicial custody. Detention in judicial custody per se is no gross violation of the terms of the bipartite settlement though the same operates as a stigma on the personality of Om Prakash Pandey. The documents produced in course of domestic enquiry clearly prove that on 07.07.1998 the claimant had availed a loan of Rupees Twenty Five Thousand from the Punjab National Bank Hazratganj Branch by submitting application. It is also seen from the documents produced in domestic enquiry that the claimant had further applied for Consumer Loan for Rupees Seventy Thousand from Punjab National Bank, HAL, Lucknow Branch on 23.11.1998 concealing the earlier loan of Rupees Twenty Five Thousand dated 07.07.1998 availed from Punjab National Bank Hazratganj Branch and it appears that loan of Rupees Thirty One Thousand was allowed by the Punjab National Bank HAL Branch, Lucknow in favour of claimant Om Prakash Pandey. It is clear from the documentary evidence produced before this Tribunal that delinquent workman Om Prakash Pandey had availed the loan of Rupees Thirty One Thousand from the Punjab National Bank HAL, branch on 23.11.1998 suppressing the earlier loan of Rupees Twenty Five Thousand availed by him from the Punjab National Bank Hazratganj Branch. The above stated documentary evidence has not been shattered during domestic enquiry and the enquiry officer found the delinquent guilty under provisions 19.5 (a) and 19.5 (j) of the bipartite settlement. 19.5 (a) of the bipartite settlement is read containing the following words:

- (a) Engaging in any trade or business outside the scope of his duties except with the written permission of the bank.

Since there is evidence of involvement of the claimant in real estate transaction for one occasion it appears improper to hold the delinquent with the misconduct of engaging in any trade or business. Be that as it may his act of availing loan of Rupees Thirty One Thousand from the Punjab National Bank, Hazratganj Branch, Lucknow suppressing the earlier loan of Rupees Twenty Five Thousand availed from the Punjab National Bank Harjratganj Branch. Availing the loans by one employee contrary to the guidelines issued by the O.P. management falls within the ambit of Para 19.5 (j) of the bipartite settlement and the delinquent employee has been rightly held guilty under that provision of the bipartite settlement.

It may be correct that the delinquent employee has sworn affidavit that after dismissal by the O.P. bank he went without gainful engagement and earning. Law is well settled that burden of proving that the delinquent employee spent the period after dismissal without gainful engagement lies on the delinquent such burden cannot be reasonably held to have been discharged by one self-serving affidavit filed by the delinquent. In other words, the delinquent employee has failed to discharge the burden on him that after order of dismissal he went without gainful employment

In all kinds of exercise of awarding back wages some amount of guesswork blended with reasonableness and propriety is desirable. Merely because the claimant was awarded dismissal without notice, it cannot definitely be concluded that he was going without engagement. In view of the nature of allegations on record during the course of departmental enquiry the claimant is held to be entitled to get 40% of back wages excluding House Rent Allowance

from point of dismissal 15.01.2001 till the end of his job from the employer bank. He shall be deemed to be continuing in service till his date of superannuation for pensionary benefits.

Since the claimant workman was dismissed by the employer bank (P.N.B) in the facts and circumstances of the case as discussed above his application is partly maintainable.

The reference is answered accordingly. In the factual scenario the parties are left to bear their respective costs.

Let a soft copy of this award be sent to Ministry of Labour, New Delhi for publication

Hard copy thereof will follow in due course of time.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1550.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार 3 एवं 4 इनक्लाइन, झांजरा परियोजना का ई.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 03/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/193/2011-आईआर(सीएम-II)]

मणिकंदन एन, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1550.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of 3&4 Incline, Jhanjra Project of E.C.L. and their workmen, received by the Central Government on 13/09/2023.

[No. L-22012/193/2011- IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 03 OF 2012

PARTIES: Dalbir Singh

Vs.

Management of 3 & 4 Incline, Jhanjra Project of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, Adv.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 14.08.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/193/2011-IR(CM-II)** dated 15.02.2012 has been pleased to refer the following dispute between the employer, that is the Management of 3 and 4 Incline, Jhanjra Project under Jhanjra Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of 3 & 4 Incline Jhanjra Area of M/s. Eastern Coalfields Limited denying rectification of date of birth of Sri Dalbir Singh, Mining Sirdar as 06.09.1956 is legal and justified? To what relief the workman concerned is entitled to? ”

1. On receiving Order **No. L-22012/193/2011-IR(CM-II)** dated 15.02.2012 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 03 of 2012** was registered on 05.03.2012 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. The workman filed his written statement through the General Secretary of Koyala Mazdoor Congress, Asansol on 19.06.2013. According to the averments in the written statement Dalbir Singh, the aggrieved workman is a permanent employee of the company posted as Mining Sirdar at Jhanjra Project of Eastern Coalfields Limited (hereinafter referred to as ECL). It is contended that in the Service Record the year of birth is recorded as 1954 instead of his date of birth, which is 06.09.1956. It is claimed that according to his School Certificate and Mining Sirdarship Certificate issued by the Directorate General of Mines Safety (DGMS) the date of birth of Dalbir Singh is 06.09.1956. In the year 1987, on receiving a copy of Service Excerpt the workman raised age dispute related to the recorded year of birth. It is asserted on behalf of the workman that according to Implementation Instruction No. 76 (hereinafter referred to as II No. 76) the date of birth of a workman who passed Matriculation examination before joining his service in ECL should be recorded as per the date of birth appearing in the Matriculation Certificate, but the management recorded a wrong date of birth in this case. Even in Mining Sirdarship examination, which the workman passed while in service of the company, the Manager of the Colliery endorsed his date of birth as 06.09.1956. The workman has claimed that his date of birth recorded in the Matriculation Certificate should be taken as final and necessary correction should be made in all the records of the company.
3. The management of ECL contested the case by filing written statement on 22.10.2014. According to the version of the management of ECL, at the time of appointment of Dalbir Singh at Mithapur Colliery under Satgram Area of ECL his date / year of birth was recorded as 1954 in the Statutory Form ‘B’ Register of Mithapur Colliery. In the year 1987 the Service Record Excerpt (hereinafter referred to as SRE) of the workman was issued, where his year of birth was recorded as 1954 as per entry of the Form ‘B’ register. All along the workman was aware about the date of birth recorded in the Form ‘B’ Register and he had accepted the same by authenticating it. In the letter of appointment and attestation form the year of birth was duly recorded as 1954. In the Form ‘B’ Register of Jhanjra Project of ECL, where the workman was subsequently transferred, his year of birth was recorded as 1954 on the basis of the Last Pay Certificate (LPC) issued from Mithapur Colliery. The management of ECL contended that there is no occasion for rectification of date of birth of the workman.
4. In support of his case Dalbir Singh filed an affidavit-in-chief, wherein he stated that on receiving SRE in the year 1987 he raised dispute regarding his year of birth and claimed that his date of birth is 06.09.1956 on the basis of his School certificate and Mining Sirdarship Certificate. The witness further stated that according to the II No. 76 his age should be corrected as per School Certificate and Mining Sirdarship Certificate but the management did not consider his request. The witness claimed that he passed his Matriculation examination before his appointment under the company and his date of birth was recorded in his educational certificate as 06.09.1956. The management of the colliery certify his date of birth as 06.09.1956 at the time of his appearance in the Mining Sirdarship examination. The workman wanted to continue his service by way of rectification of his date of birth in his service record. In his cross-examination Dalbir Singh deposed that he filed his School Certificate and Mining Sirdarship Certificate. However, no such document has been admitted in the evidence at the instance of workman or his Union. Workman witness admitted that he was appointed in the service on 11.07.1974 and at the time of his appointment his year of birth was recorded as 1954. The witness admitted that he has put his signature on the Form ‘B’ Register where his year of birth is recorded as 1954 but at that time, he did not go through the entries made in the Service Record. The witness further deposed that his educational qualification is recorded in the Service Record as Matriculate and he was still working as a General Mazdoor. A suggestion was put to the witness that he did not deposit his Matriculation Certificate at the time of his appointment, which he has denied. On perusal of the Form ‘B’ of Dalbir Singh produced by the management as Exhibit M-1, I find that Point No. 5 relating to certificate regarding educational qualification and vocational training in the Mines have been left vacant. It is obvious that in the year 1974 the aggrieved workman did not produce any certificate regarding its educational qualification containing his date of birth. In course of his cross-examination the witness stated that he has been superannuated from service on the basis of date of birth recorded in

the Service Record. In the copy of SRE dated 24.04.1987 of Mithapur Colliery of ECL, Point No. 7 relating to the educational qualification is found blank. Therefore, there is no cogent reason to accept that the workman had submitted his Matriculation Certificate before the company at the time of his appointment. Page No. 2 of SRE contains acknowledgment receipt of the letter. The workman in the remarks column of the acknowledgment receipt record his objection regarding his date of birth and claimed the same to be 06.09.1956. The workman however did not produce any Matriculation Certificate containing his date of birth.

5. The management examined Mr. Alaric Oneal Lyndem as Management witness – 1. In the affidavit-in-chief he stated that in the SRE, issued by Mithapur Colliery the date of birth of Dalbir Singh was recorded as 1954. Witness further stated that though the workman raised a dispute in the SRE for correction of his date of birth as 06.09.1956 on the basis of High School Certificate, the same could be considered as it was not issued by any recognized board of examination. The management witness deposed that the year of birth of the workman is 1954 and he has been superannuated from his service. The School leaving transfer certificate produced by him was issued only on 08.09.1990 (Exhibit M-3). The workman submitted his representation and on 21.10.2010 that he passed his Matriculation examination before joining ECL but no Matriculation Certificate was produced by him. The copy of his application dated 07.10.2010 for rectification of date of birth has been marked as Exhibit M-4. The cross-examination of management witness reveals that the School leaving certificate purportedly bearing his date of birth as 06.09.1956 was never produced.

6. I have considered the gamut of evidence adduced and the rival contentions of the parties. It is conspicuous from the relevant document that since joining his service in the year 1974, the year of birth of Dalbir Singh was recorded as 1954 and there is no interpolation of his date of birth recorded in the Form 'B' Register. After more than ten years the workman raise objection regarding date of birth on the pretext that he passed the Matriculation examination before appointment and his date of birth recorded in the Matriculation Certificate as 06.09.1956. The dispute was raised on the basis of such claim as the workman wanted his date of birth to be recorded in terms of II No. 76.

7. On traversing the contents of Implementation Instruction No. 76, relating to procedure for determination / verification of age of the employees at the time of appointment, it is laid down in Clause A (i) that :

“Matriculates.

In the case of appointees who have passed Matriculation or equivalent examinations, the date of birth recorded in the said certificate shall be treated as correct date of birth and the same will not be altered under any circumstances.”

In the present case at the time of his appointment in the year 1954, no Matriculation Certificate was placed before the employer and there was no scope for recording such unconfirmed date of birth in the Form 'B' Register. Even after raising the dispute the workman failed to produce any Matriculation Certificate before the employer hoping to derive benefit through II No. 76. During adjudication of the Industrial Dispute, the workman was unable to produce any Matriculation Certificate. Therefore, by no stretch of imagination it could be presumed that the date of birth of Dalbir Singh is 06.09.1956. The date of birth appearing in the Mining Sirdarship Certificate is not a document to be relied upon for the purpose of deciding his date of birth unless the primary document of Matriculation Certificate is produced.

8. Having considered the facts and circumstances and the materials available on record I hold that the management of 3 and 4 Incline, Jhanjra Project under Jhanjra Area of ECL committed no error in denying rectification of date of birth of Dalbir Singh as 06.09.1956. The claim of the workman is out and out unfounded and he is not entitled to any rectification of his date of birth. The Industrial Dispute is accordingly decided against the workman on contest.

Hence,

ORDERED

that the Industrial Dispute raised by Koyala Mazdoor Congress claiming rectification of date of birth of Dalbir Singh as 06.09.1956 is dismissed on contest. Let an Award be drawn up in the light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1551.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शुद्ध सीयरसोल कोलियरी का ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 25/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/149/2013-आईआर(सीएम-II)]

मणिकंदन एन, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1551.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 25/2013**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **Pure Searsole Colliery of E.C.L.** and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/149/2013- IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 25 OF 2013

PARTIES: Sonaram Majhi

Vs.

Management of Pure Searsole Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, Adv.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 08.08.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/149/2013-IR(CM-II)** dated 12.11.2013 has been pleased to refer the following dispute between the employer, that is the Management of Pure Searsole Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the Management of Puresearsol Colliery not to re-instate Sri Sonaram Majhi in service is proper and justified, while he was dismissed from service only on ground of absenteeism, due to ill health and sickness. If not, so what relief Management can provide to him? ”

1. On receiving Order **No. L-22012/149/2013-IR(CM-II)** dated 12.11.2013 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 25 of 2013** was registered on 14.02.2014 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Rakesh Kumar, union representative filed written statement on behalf of the workman on 16.06.2015. Mr. P. K. Das, learned advocate for Eastern Coalfields Limited (hereinafter referred to as ECL) appeared and filed written statement on 01.08.2016. The Industrial Dispute which has been referred for adjudication is whether not reinstating Sonaram Majhi in his service is proper and justified when he was dismissed on the ground of absention due to ill health. Management in their written statement stated that the workman absented from duty from 31.10.1996 and he was chargesheeted on 07/08.01.1997 for violation of Clause 17(1)(n) of the Model Standing Order applicable to the Mines.

3. Delinquent workman failed to submit satisfactory reply to the Charge Sheet and a Domestic Enquiry was held by the Enquiry Officer, duly appointed by the appointing authority. Notice was sent to the workman at his home address as per service record but he did not attend the Enquiry Proceeding. The charge of misconduct was fully established against him and a Second Show Cause Notice was issued to him. The Disciplinary authority after considering Charge Sheet, Enquiry Proceeding, Enquiry Report, and connected papers, passed an order of dismissal of Sonaram Majhi from service. It is claimed that punishment awarded is justified and proportionate. It has been denied that the ex-workman failed to attend duty due to his illness.

4. The case was fixed up for evidence of management witness and filing authorization by the learned advocate for ECL but no letter of authorization has been filed. Mr. P. K. Das, learned advocate for ECL filed a Vokatnama executed by the Agent, J. K. Nagar (R) Colliery of ECL, though the written statement was filed by the Agent, Jemehari / Pure Searsole Colliery under Satgram Area of ECL. It appears to me that learned advocate has misfiled his Vokatnama in this case and same is not acceptable.

5. Mr. Rakesh Kumar informed this Tribunal on 23.12.2022 that Sonaram Majhi has expired and his legal heirs should be substituted in his place for receiving monetary compensation, if any. Opportunity was granted to the concerned union to take necessary steps for substitution of legal heirs and to produce Death Certificate as well as legal heirship certificate in respect of Sonaram Majhi. After four consecutive dates, Mr. Kumar submitted that legal heirs of the deceased employee are not inclined to proceed with this case and he is unable to file death certificate. An application has been filed by the union representative praying for deciding the fate of this dispute on the ground that workman has died and the dependent of the deceased employee has not turned up after necessary instruction. On call at 12:30 PM, Mr. Kumar moved the application after service of a copy upon Mr. P. K. Das, advocate for the management. Since, the legal heirs of the deceased ex-employee are not interested in pursuing the case, same is dismissed for non-prosecution.

Hence,

ORDERED

that the Industrial Dispute is dismissed for non-prosecution. An Award be drawn up accordingly. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1552.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पैरास्कोल कोलियरी ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 11/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/4/2020-आईआर(सीएम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1552.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2020) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of Parascole Colliery E.C.L. and their workmen, received by the Central Government on 13/09/2023.

[No. L-22012/4/2020- IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,ASANSOL.**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 11 OF 2020

PARTIES: Koyala Mazdoor Congress on behalf of
Nawal Kishor Singh.
Vs.
Management of Parascole Colliery of ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 26.07.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/4/2020-IR(CM-II)** dated 06.02.2020 has been pleased to refer the following dispute between the employer, that is the Management of Parascole Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the claim of Koyala Mazdoor Congress (HMS), Asansol, for providing employment on compassionate grounds by the management of M/s. E.C.Ltd. to Nawal Kishore Singh, dependent son of Late Surendra Mohan who expired on 27.2.2015, is appropriate and justified? If yes, to what relief Shri Nawal Kishore Singh, the dependent son of Late Surendra Mohan Singh is entitled to? ”

1. On receiving Order **No. L-22012/4/2020-IR(CM-II)** dated 06.02.2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2020** was registered on 24.02.2020 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Rakesh Kumar, President, Koyala Mazdoor Congress appeared and filed written statement in this case on 07.09.2022. The brief fact of the case as disclosed by the workmen's union is that Surendra Mohan Singh, Ex-Line Mazdoor was a permanent employee of Parascole Colliery under Kajora Area of Eastern Coalfields Limited (hereinafter referred to as ECL) who died on 21.02.2015. According to the provisions in Clause 9.5.0 of National Coal Wage Agreement (hereinafter referred to as NCWA) – VI one dependent of the deceased employee is entitled to get employment. Accordingly, Nawal Kishor Singh applied for providing employment to him along with necessary documents. After screening held at the Colliery level, proposal for employment was sent to the Area Office. The Area Office conducted screening in which all the family members were called to appear and Nawal Kishor Singh the son of the deceased was asked to appear before the Initial Medical Examination (hereinafter referred to as IME) Board at the Area Hospital for his medical examination and assessment of his age. The IME Board declared him fit for employment and assessed his age as thirty-four years on the date of medical examination. According to the Implementation Instruction No. 76 (hereinafter referred to as II No. 76) the age decided by the IME Board is considered final. If a person is aggrieved by the findings of the IME Board, then he can make appeal for re-assessment of his age by the Apex Medical Board but if no objection is raised the age decided by the IME Board is considered as final.

3. Nawal Kishor Singh was found below thirty-five years of age on the date of death of his father. The Area Screening Committee and the General Manager of the Area recommended the employment proposal and forwarded it to the Head Quarters of ECL. In the Madhyamik Examination Certificate the date of birth of Nawal Kishor Singh was

recorded as 18.05.1981, in the Service Record of Surendra Mohan Singh the age of Nawal Kishor Singh was recorded as twelve years as on 24.03.1983, in PS-3 Form his age was recorded as twenty-three (23) years as on 26.05.1998, in the Aadhaar Card his age was recorded as twenty-three as on 26.05.1998, and in the Election Photo Identification Card (EPIC) his date of birth was recorded as 20.12.1981. After a long proceeding the management of ECL vide Letter No. PSC / P&IR / C-6 / 17 / 731 dated 30.06.2017 communicated to Nawal Kishor Singh that his age recorded in the Service Record Excerpt (SRE) of the employee was more than thirty-five (35) years as such he is not entitled to get employment and another dependent of the deceased employee can be considered for employment. The contention of the union is that most of the workmen in the Coalfield are illiterate and unable to disclose the actual date of birth of their family members. They do not have Birth Certificate of their dependents and the recordings in the Service Record of ECL are usually done by the dealing clerks which are incorrect. It is urged that the management has no option to regret the claim for employment of Nawal Kishor Singh as the decision of the IME Board as per guidelines of the Joint Bipartite Committee for the Coal Industry (hereinafter referred to as JBCCI) is final and the management cannot go against its own circular. It is further asserted that Nawal Kishor Singh, the dependent son has no source of income to maintain his livelihood. He is in urgent need of employment so that he can save his family from starvation. It is prayed that the Nawal Kishor Singh, the dependent son of Surendra Mohan Singh should be provided with employment under the provisions of NCWA on the basis of II No. 76 with all consequential benefits. Furthermore, wife/dependent son should be paid monetary compensation from the date of death of employee to the date of providing employment to the dependent son.

4. The management of Parascole Colliery under Kajora Area of ECL submitted their written statement on 07.09.2022 refuting the claim of workmen's union. It is the case of the employer company that as per the provisions of NCWA one dependent family member is entitled to have employment on the death of employee while in service. Nawal Kishor Singh, dependent son of the deceased employee applied for his employment on the death of his father. According to the contents of Service Book of the employee, the age of Nawal Kishor Singh was twelve years as on 01.04.1987 and in the PS-3 Form his age was recorded as twenty-three years as on 26.05.1998. The application for employment was submitted on 09.07.2015 i.e. after five months from death of his father. At the relevant time the age of Nawal Kishor Singh was more than forty years. It is contended on behalf of the management that under NCWA the maximum age of the dependent for being considered for employment is thirty-five years. It was communicated to Smt. Prema Devi, wife of Surendra Mohan Singh vide letter no. PSC/P&IR/C-6/15/742 dated 24.07.2015 that the proposal for providing employment to her elder son could not be entertained as he was overage and she was advised to apply for monthly monetary cash compensation. In reply to the letter Nawal Kishor Singh requested for sending him to the IME Board. He submitted copy of his Permanent Account Number (PAN) card, Aadhaar card, Voter ID card, Birth Certificate but all the documents were found to have been issued after the death of Surendra Mohan Singh on 21.02.2015. Finally, it was communicated by ECL Head Quarters that as per recorded age and the entries in SRE and PS-3 Form, the age of the applicant was more than forty years. The EPIC, Aadhaar card and PAN card were prepared after the death of his father to reduce his age and the Birth Registration Certificate was also arranged after the death of his father for such reasons his prayer for employment was regretted. It is the case of the management that the action of the management is lawful and proper and the dispute raised by the union is misconceived.

5. Nawal Kishor Singh in support of his case filed an affidavit-in-chief reiterating the statements made in the written statement filed by the Union. It is further stated that according to the guidelines of JBCCI the age of the dependent is decided by the IME Board but if the dependent of the deceased employee is a matriculate, then his age recorded in the Matriculation Certificate is final and if he is a non-matric then his age is decided by the IME Board. He further averred that the IME Board declared him fit for duty and assessed his age as thirty-four years on the date of medical examination. Therefore, he is below thirty-five years on the date of death of his father. The management of ECL informed him to appear before the Apex Medical Board for review of his age decided by the IME Board, but he raised objection and submitted an application on 17.07.2017 addressed to the Head Quarters of ECL through Colliery stating that since he has no objection against the finding of the IME Board there is no scope for review of his age by the Apex Medical Board.

6. In his evidence on affidavit-in-chief, it is further stated that the management without accepting the age of Nawal Kishor Singh record in the Service Record of the ex-employee had sent him for assessment of age by the IME Board. Therefore, the decision of the IME Board should be taken as final.

7. In course of evidence the workman witness produced photocopy of the Identity Card of his father which is marked as Exhibit W-1, photocopy of Service Record Excerpt in four pages as Exhibit W-2, photocopy of Death Registration Certificate of his father as Exhibit W-4, photocopy of application in prescribed form as Exhibit W-5, photocopy of No Objection Certificate submitted by the other dependent family members as Exhibit W-6, photocopy of the letter dated 16.07.2016 making some queries regarding the dependent son is marked as Exhibit W-7, photocopy of letter issued by the Colliery Authority on 11.11.2016 is Exhibit W-8, photocopy of letter dated 30.06.2017 regretting the proposal for employment as Exhibit W-9, photocopy of letter dated 17.07.2017 regarding subsequent appeal made before the management of the company for reconsidering the proposal for employment as Exhibit W-10, photocopy of the letter dated 12.05.2019 issued by the union representative for reconsidering the prayer for employment as Exhibit W-11, photocopy of the Certificate issued by the Bihar Board of Open Schooling &

Examination, Patna, containing the date of birth of the petitioner as Exhibit W-12, and photocopy of Birth Certificate of Nawal Kishor Singh as Exhibit W-13.

8. Management of Parascole Colliery of ECL led evidence through Mr. Ashlam Shair, who is examined as Management witness – 1. It has been deposed by the witness that from the official record it appears that the age of the claimant was more than thirty-five years at the time of death of his father. In his cross-examination the witness deposed that the employment proposal of the dependent son of Surendra Mohan Singh was regretted by the competent authority on the ground that there was discrepancy of age mentioned in the documents produced and the IME report of the candidate.

9. In support of their case management produced several documents which have been arrayed as Exhibit M-1 to M-6. A photocopy of Service Book of Surendra Mohan Singh is produced as Exhibit M-1, photocopy of the PS-3 Form containing family particulars as Exhibit M-2, photocopy of the report of pre-employment medical examination as Exhibit M-3, photocopy of the letter dated 27/30.06.2017 regretting the proposal for employment as Exhibit M-4, photocopy of the letter dated 14.08.2020 asking the candidate for re-assessment of his age and for submission of affidavit, undertaking to accept the age assessed as Exhibit M-5, photocopy of the letter dated 13.06.2017 addressed to the Manager (Personnel), Kajora Area informing that the date of birth of Nawal Kishor Singh appearing in the documents are different and another son of the deceased employee may apply for employment is produced as Exhibit M-6.

10. The point for consideration is whether Nawal Kishor Singh, the dependent son of the deceased employee, Surendra Mohan Singh is entitled to get employment under ECL on compassionate ground.

11. Mr. Rakesh Kumar, Union representative appearing for Nawal Kishor Singh argued that the father of the claimant was a permanent employee at Parascole Colliery of ECL, who died in harness on 21.02.2015. Nawal Kishor Singh who submitted his application for employment dated 01.06.2015 was less than thirty-five years at the time of death of his father as was determined by the IME Board. It is argued on behalf of the son of the ex-employee that he is entitled to employment according to the Clause 9.5.0 of NCWA-VI and as per the provisions of II No. 76 of NCWA-III the date of birth of an illiterate person has to be determined by the Colliery Medical Officer in view with any documentary and other relevant evidence as produced by the appointee. The date of birth shall not be altered under any circumstances. It is argued that in the present case the age of Nawal Kishor Singh was assessed by the IME Board as thirty-two to thirty-seven (32 -37) years, as such his age was below thirty-five years at the time of death of his father. Mr. Rakesh Kumar submitted that since Nawal Kishor Singh passed his Madhyamik examination from Bihar Board of Open Schooling & Examination, Patna in 2017, his date of birth was recorded as 18.05.1981, but as he did not submit the Certificate, the date of birth recorded in the certificate may not be considered and the decision of the IME Board should be treated as final for granting employment.

12. Mr. P. K. Das, learned advocate for the Management of ECL strongly opposed the claim for employment. It is argued that Nawal Kishor Singh was more than forty years at the time of his father's death and he had produced several documents wherein different date of birth was recorded. It is argued that in the SRE (Ext. M-1) the age of Nawal Kishor Singh was recorded as twelve years as on 01.04.1987 therefore his date of birth would be 01.04.1975 i.e. forty years at the time of death of his father on 21.02.2015. In Form PS-3 (Ext. M-2) age of the claimant was recorded as twenty-three years as on 26.05.1998 therefore his year of birth would be 1975 and no objection was raised by the employee. In the Aadhaar card and PAN card the date of birth has been recorded as 20.12.1981 and in the Voter ID card the year of birth was recorded as 1981. In his Madhyamik Certificate his date of birth was recorded as 18.05.1981, which is again inconsistent with the date of birth appearing in the Birth registration certificate, PAN card and Aadhaar card appearing as 20.12.1981. All these documents have been obtained subsequent to the death of his father only for the purpose of employment and there is no document contemporaneous to the death of his father disclosing his date of birth, therefore the subsequent documents cannot be relied upon.

13. Learned advocate further argued that in II No. 76 the date of birth of an illiterate person could be considered by way of holding medical examination and by taking into account of other available documents. In the case of Nawal Kishor Singh there is conspicuous discrepancy regarding his age recorded in the Service Record of his father, his PAN card, Birth Certificate, and date of birth recorded in his Madhyamik Certificate. It is argued that when such discrepancies could not be reconciled with the age assessed by way of pre-employment medical examination, the management of the company had to regret his prayer for employment on the ground that he was more than forty years of age on the basis of SRE and PS-3 Form of his father and other documents which he had produced for the purpose of reducing his age, obtained by him after the death of his father.

14. I have considered the argument advanced on behalf of the dependent of the deceased workman and management and the facts and circumstances of this case as well as provisions laid down in NCWA-VI and II No. 76. Admittedly, Surendra Mohan Singh, father of Nawal Kishor Singh was a permanent employee of ECL who died on 21.02.2015 at the age of fifty-nine years and seven months. Death benefits have already been disbursed to the dependents soon after the death of Surendra Mohan Singh and Nawal Kishor Singh submitted his application dated 01.06.2015 for employment, which has been admitted in evidence as Exhibit W-5. The other legal heirs of the deceased employee filed "no objection" in favour of Nawal Kishor Singh which has been produced as Exhibit W-6.

From the evidence of management, it is gathered that a pre-employment medical examination of Nawal Kishor Singh was held on 18.11.2015 and the report produced as Exhibit M-3 disclosed that by appearance the age of the person was between thirty-two to thirty-seven years. In point no.5 of the Form the age of candidate as per Birth Certificate issued by Bihar Government was recorded as 20.12.1981. At the relevant time the candidate did not qualify in the Matric examination or any equivalent examination and no document was produced in support of his qualification. Management did not venture to confirm the actual age of the candidate by any radiological examination which is acceptable under the medical jurisprudence. It is found that subsequently the claimant passed Madhyamik examination from Bihar Board of Open Schooling & Examination, Patna in the year 2017 where his date of birth was recorded as 18.05.1981. Nawal Kishor Singh was unable to explain the discrepancies and variance relating to his date of birth appearing on the face of documents like his Birth Certificate (Ext. W-13) where his date of birth appears as 20.12.1981 and his date of birth disclosed in the Madhyamik certificate. In view of such discrepancies no reliance can be placed upon any of the documents produced on behalf of the dependent son.

15. Implementation Instruction No. 76, relating to determination of age at the time of appointment, in paragraph (A) (iv) lays down that in case of illiterate persons the date of birth would be determined by the Colliery Medical Officer keeping in view any documentary or other relevant evidence as produced by the appointee. Paragraph (E) of II No. 76 provides that :

“Medical Board constituted for determination of age will be required to assess the age in accordance with the requirement of “Medical Jurisprudence” and the Medical Board will as far as possible indicate the accurate age assessed and not approximately.”

Nawal Kishor Singh at the time of submitting his application for employment did not produce any certificate in support of his educational qualification. Therefore, there was no scope for considering his date of birth recorded in Madhyamik Certificate which he obtained on 19.02.2018 (Ext. W-12). The Birth Certificate issued only on 25.04.2015 i.e. after the death of his father (Ext. W-13).

16. At this stage it would be appropriate to refer to a decision of the Hon'ble Supreme Court in the case of **Mohan Mahto vs M/s. Central Coalfields Limited and Others, 2007 (115) FLR 427** wherein it was held:

“A settlement within the meaning of Sub-section (3) of Section 18 of the Industrial Disputes Act is binding on both the parties and continues to remain in force unless the same is altered, modified or substituted by another settlement. No period of limitation was provided in the settlement. We would assume that the respondent had jurisdiction to issue such circular prescribing a period of limitation for filing application for grant of appointment on compassionate ground. But, such circular was not only required to be strictly complied with but also was required to be read keeping in view the settlement entered into by and between the parties. The expanding definition of workman as contained in Section 2(s) of the Industrial Disputes Act would confer a right upon the appellant to obtain appointment on compassionate ground, subject, of course, to compliance of the conditions precedent contained therein.”

17. Clause 9.4.0 (iv) of the National Coal Wage Agreement – VI provides that :

“The dependents to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment.”

18. Strict adherence to II No. 76 would be require for determination of accurate age by holding radiological (Ossification) test acceptable under Medical Jurisprudence and not a casual approach of eye assessment of approximate age. The candidate objected to appear for his age assessment by the Apex Medical Board. In the Service Record of Surendra Mohan Singh, the year of birth of Nawal Kishor Singh has been consistently recorded as 1975. No objection was raised by him. There were one daughter and another son of the ex-employee whose age have also been recorded. If for argument's sake it is assumed that the actual year of birth of Nawal Kishor Singh is 1981 as appearing in his Birth Certificate and Madhyamik Certificate then it would imply that he is younger to his young brother and young sister whose age have been recorded on 01.04.1987 as ten years and eight years respectively, which is not acceptable. Therefore, the management of ECL committed no illegality in holding that the age of Nawal Kishor Singh was more than thirty-five years at the time of his father's death and in regretting his proposal for employment.

19. In my considered view Nawal Kishor Singh's claim for compassionate employment cannot succeed on the basis of ambiguous documents which are self-contradictory, giving rise to discrepancies and disbelief. The Industrial Dispute raised by the Union on behalf of the dependent son of the deceased employee does not have any merit and the same is dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute raised on behalf of the dependent of the deceased employee is dismissed on contest. Let an award be passed in terms of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1553.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गिरमिंट ® कोलियरी का ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय**, आसनसोल के पंचाट (संदर्भ संख्या 01/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/1/2021-आईआर(सीएम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2021) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **Girmint ® Colliery of E.C.L.** and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/1/2021- IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 01 OF 2021

PARTIES: Mahesh Turi

Vs.

Management of Girmint (R) Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, Adv.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 25.08.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/1/2021-IR(CM-II)** dated 24.03.2021 has been pleased to refer the following dispute between the employer, that is the Management of Girmint (R) Colliery under Sripur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the Management of Girmint (R) Colliery under Sripur Area of M/s. Eastern Coalfields Ltd. in regretting the claim for employment of Shri Mahesh Turi dependent son of Late Jogeshwar Turi, Ex-Roof Stitcher of KDI/Girmint Colliery is just and legal? if not, to what relief the dependent son is entitled to? ”

1. On receiving Order **No. L-22012/1/2021-IR(CM-II)** dated 24.03.2021 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 01 of 2021** was registered on 17.06.2021 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. Rakesh Kumar, President, Koyala Mazdoor Congress filed written statement on behalf of the dependent of ex-employee on 14.11.2022. The fact of their case in brief is that, Jogeswar Turi, ex-Roof Stitcher of KDI Girmint Colliery under Sripur Area of Eastern Coalfields Limited (hereinafter referred to as ECL) was a permanent employee of the company. He died on 08.07.1998, in harness. According to the provisions of National Coal Wage Agreement (hereinafter referred to as NCWA), applicable to the employer and employee, one dependent of the deceased employee is entitled to get employment. Mahesh Turi, the dependent son applied for his employment as a dependent of his father. After a screening held at the colliery level Mahesh Turi was referred to appear before the Initial Medical Examination (hereinafter referred to as IME) Board for his medical examination on 30.11.2004. The Medical Board after holding necessary examination declared him “*unfit for U/G job or employment*” due to his audiometry problem.

3. It is the contention of the Union that the Medical Board had declared Mahesh Turi unfit for underground job only but employment could have been provided for work on surface. Being aggrieved with the decision Mahesh Turi applied for his medical examination once again after he was medically treated for his audiometry problem, where the doctor found him fit in all respect. It is urged that if a person is found unfit for all kind of job, then he can apply for review of the decision by a higher Board. Mahesh Turi requested the management for his examination on the basis of medical treatment received by him. The management did not accept his request as a result an Industrial Dispute was raised by the union before the Assistant Labour Commissioner (Central), Asansol. During conciliation management agreed to send Mahesh Turi to appear before the Medical Board and in this matter a Memorandum of Settlement was executed on 10.10.2012. According to the union the Government of India has issued guidelines where partially handicapped person are also provided employment by the company and Mahesh Turi who was not a handicapped person at the time of his first IME was deliberately declared unfit by doctor for underground job.

4. Subsequently, Mahesh Turi was sent before the second IME Board on 13.04.2015, which examined him and declared him “*unfit for UG job*” due to overage. It is contended that IME Board cannot decide the age of a person twice as the age decided in the first IME is to be taken as final. The second medical examination by the Medical Board was required only to assess whether the person is medically fit but in the instant case the board decided his age as thirty-five to forty years on 13.04.2015 and declared him unfit due to overage and not due to any disease.

5. It has been claimed on behalf of the Mahesh Turi that First IME Board assessed his age as twenty to twenty-five years i.e. twenty-two years and six months as on 30.11.2004, the date of his examination, which implies that his age would have been sixteen years and three months on the date of death of his father. The Second IME Board decided the age of Mahesh Turi as thirty-five to forty years as on 13.04.2015, i.e. thirty-seven years and six months on 13.04.2015. Therefore, the age Mahesh Turi would have been twenty years and nine months on the date of death of his father. It is asserted that as per this medical examination he was below thirty-five years of age at the time of death of ex-employee and he is entitled to employment on compassionate ground. The written statement of the petitioner referred to the Circular / Guideline of the Director (Personnel & IR), Coal India Limited dated 25.07.2003 where it is mentioned in a clarification to the member of Consultative Committee on 23.05.2003 that :

“ the age on the date of application would be reckoned for offering employment on the compassionate ground so that candidates are not debarred on the ground of age at the time of appointment.”

6. The Management of ECL submitted their written statement on 20.01.2023 through the agent of Bhanora-Girmint Group of Mines under Sripur Area of ECL. It is admitted that Jogeswar Turi was an employee of Girmint (R) Colliery and he expired on 08.07.1998 in harness and Mahesh Turi his son applied before the management for employment against the death of his father under the provisions of NCWA. On the basis of his application, he was referred to IME Board for assessment of his fitness to work in the mine according to the provisions of Mines Act, 1952. The Board held the assessment on 30.11.2004 and he was found medically unfit for underground job due to audiometry problem. It is also admitted that according to the norms of the company if IME Board declared some person unfit for duty, then the concerned person has the right to appeal before the competent authority within one month from the date of receipt of IME Result. In the instant case Mahesh Turi did not appeal before the competent authority for his re-examination within the scheduled period and he raised an Industrial Dispute through Koyala Mazdoor Congress, union bearing application no. 1(18)/2012/E-3, which is not proper. Due to ignorance of the management a Memorandum of Settlement was signed on 10.10.2012. In the Memorandum of Settlement, the management of Girmint Colliery under Sripur Area of ECL agreed to forward the case of Mahesh Turi to the Head Quarter after receiving fresh application from Mahesh Turi, challenging the previous Medical Board IME Report. Fresh application was submitted on 23.01.2013 in compliance with the terms of the Memorandum of Settlement and further IME was held at Area Level which was supposed to be held at the Head Quarter and findings of the Second IME is that Mahesh Turi was again found “*unfit for UG Job due to overage*” which means Mahesh Turi was more than thirty-five years of age on the date of IME i.e. 13.04.2015 and he is not eligible for claiming employment as per provisions of NCWA. The matter was communicated at the Head Quarter level and it was examined by them and found that the case was not fit for consideration on the ground that the workman died more than twenty years ago. The purpose of incorporating provision for compassionate appointment in NCWA is to provide immediate relief to the family of the deceased employee, who was the bread earner of that family but after passing of twenty years the purpose of compassionate appointment is defeated. Furthermore, the compassionate employment is not an inheritable

property of the successor of the deceased employee and that the demand of the union does not come within the ambit of Industrial Dispute defined in Section 2k of the Industrial Disputes Act, 1947. It is urged that the Industrial Dispute is liable to be dismissed.

7. Mahesh Turi filed his affidavit-in-chief and examined himself as the sole workman witness. Several documents have been produced by the dependant son of the deceased employee, which have been marked as Exhibit W-1 to W-10

- (i) A photocopy of Death Registration Certificate of Jogeswar Turi is admitted in evidence as Exhibit W-1.
- (ii) A copy of the Service Record Excerpt of the deceased employee is marked as Exhibit W- 2.
- (iii) Photocopy of the Screening Committee's Report dated 05.10.2001 as Exhibit W- 3.
- (iv) A photocopy of the communication dated 28.04.2005 whereby the dependent was declared "unfit for U/G job or employment", as Exhibit W- 4.
- (v) A photocopy of the Medical Examination Report dated 30.11.2004, declaring the dependent unfit for underground job as Exhibit W- 5.
- (vi) A copy of the Memorandum of Settlement dated 10.10.2012, as Exhibit W-6.
- (vii) A photocopy of the Application of Mahesh Turi dated 23.01.2013 requesting the management to refer him for medical examination once again, as Exhibit W-7.
- (viii) A photocopy of Letter dated 10.02.2015 issued by the Chief Manager (Personnel), Sripur Area whereby management referred Mahesh Turi for Medical Examination at Area Level, as Exhibit W-8.
- (ix) A photocopy of the Medical Report dated 13.04.2015 whereby Mahesh Turi was declared unfit for underground job due to overage as Exhibit W-9.
- (x) A photocopy of Application of Mahesh Turi dated 21.04.2017 addressed to C.M.D., ECL, Sanctoria, seeking necessary direction for his employment as Exhibit W-10.

In cross-examination the workman witness deposed that at present he is forty-one years of age and that he filed an application within one month from the IME Board's report requesting the management for referring him for medical examination once again. On 13.04.2015 he was examined for the second time by the Medical Board and was again declared unfit on the ground that he was overage. He admitted that in 2015 his age was assessed as more than thirty-five years and claimed that he is entitled to get employment on the basis of report of medical examination.

8. Mr. Ranveer Rathour, Assistant Manager (Personnel), Bhanora-Girmint Group of Mines under Sripur Area of ECL deposed on behalf of the management of ECL as Management Witness -1. According to his statement in the affidavit-in-chief, the management agreed to forward the case of Mahesh Turi to the Apex Medical Board, challenging the previous medical report of IME Board. It is claimed that the ex-workman Jogeswar Turi has died more than twenty years ago and his son is not eligible for claiming employment as per NCWA. In course of his evidence management produced two reports of IME Board as Exhibit M-1 and M-2 and a copy of Memorandum of Settlement dated 10.10.2012 as Exhibit M-3.

During cross-examination the Management witness admitted that if the age determined by the IME Board on 13.04.2015 is correct then the age of Mahesh Turi at the time of death of his father in the year 1998 was twenty to twenty-one years.

9. The point for consideration now is whether the aggrieved dependent son of the deceased employee is entitled to employment under ECL on compassionate ground according to the provisions of NCWA and the terms of settlement in the Memorandum of Settlement.

10. Mr. Rakesh Kumar, Union representative advanced his argument in favour of Mahesh Turi and submitted that on the death of Jogeswar Turi on 08.07.1998, an employment proposal in favour of Mahesh Turi was issued by the management of ECL on 05.10.2001 (Exhibit W-3) leading to Initial Medical Examination of Mahesh Turi on 30.11.2004, where the age of Mahesh Turi was assessed as twenty to twenty-five years but he was declared medically unfit due to mild deafness as per audiometry report of Central Hospital, Kalla. The copy of the Medical Report has been marked as Exhibit W-5. Mr. Kumar further submitted that by letter dated 28.04.2005 the Personnel Manager (I/C) informed the Agent of Girmint (R) Colliery that as per the P.M.E. Report Mahesh Turi was found "unfit for underground job or employment". The aggrieved dependent raised an Industrial Dispute before the Assistant Labour Commissioner (Central), Asansol through the Secretary of Koyala Mazdoor Congress and on 10.10.2012 a Memorandum of Settlement was executed under Section 12(3) of the Industrial Disputes Act, 1947 between the employer of Girmint Colliery under Sripur Area of ECL and their workman represented by Mr. Binod Kumar Singh, Secretary of Koyala Mazdoor Congress. It is argued that the management of Girmint Colliery agreed to forward the case of Mahesh Turi to the headquarters for holding Apex Medical Board and the Industrial Dispute raised was accordingly settled. Mahesh Turi submitted his application before the General Manager, Sripur Area on 23.01.2013

praying for holding a fresh IME at the Area level or send him to Company's Hospital for audiometry test for deciding whether he was fit for employment or not. The application for holding fresh IME was submitted, which is produced as Exhibit W-7 and the management of the company accordingly referred him for IME at Area level by their letter dated 10/13.02.2015 (Exhibit W-8). It is contented that the second IME of the dependent son was held on 13.04.2015 (Exhibit M-9) where Mahesh Turi was found "Medically fit for employment in the mines but unfit for underground job due to overage". The union representative assailed the decision of the management on the ground that the Second IME was required to be held only for the purpose of finding his fitness for employment and not for determination of age which has already been determined in the earlier IME. It is argued that Second IME Board was not required to assess the age of Mahesh Turi and its only consideration was whether the person was fit for employment or not for medical reasons. The union representative urged that the Medical Board did find Mahesh Turi medically unfit for employment and no jurisdiction was vested in it to observe that Mahesh Turi was unfit due to overage. It is claimed that on the date of death of his father the dependent petitioner was twenty years and nine months. Therefore, according to the provisions of Clause 9.3.4 of NCWA – VI the dependent who is physically fit and suitable for employment and aged not more than thirty-five years is to be considered for employment. It is argued that the age of the candidate should be reckoned from the date of death of the ex-employee and not the date on which the medical examination was held.

11. In reply Mr. P. K. Das, learned advocate for the Management argued that at the first instance the petitioner dependent of the ex-employee was found to be medically unfit for employment and same was communicated to him. After long lapse of over thirteen years an Industrial Dispute was raised by the union before the Assistant Labour Commissioner (Central), Asansol and a settlement was reached where the management of Girmit Colliery of ECL agreed to forward the case of Mahesh Turi to the Headquarters after receiving fresh application from Mahesh Turi for holding Apex Medical Board challenging the previous IME Report. It is argued that the petitioner was referred to the IME at Sripur Area, where he was found unfit due to overage. Learned advocate for ECL contended that the IME assessed the age of Mahesh Turi between thirty-five to forty years on the date of medical examination i.e. 13.04.2015. Therefore, he is not entitled to be considered for compassionate appointment.

12. I have considered the facts and circumstances of the case. It is undisputed that Jogeswar Turi, the father of the petitioner died in harness on 08.07.1998. The management of the employer company has made provisions for compassionate appointment of dependent of an employee who has died in harness or is medically declared unfit, while in service and where no monetary compensation is paid. The decision of providing compassionate appointment emanates out of a collective decision and not a subjective decision of an individual. Compassionate appointment is an exception to the rule of regular appointment by open competition. It is a privilege extended by the employer in terms of scheme for compassionate appointment itself. In the case of **State Bank of India and Others vs Jaspal Kaur [(2007) 9 SCC 571]**, the Hon'ble Supreme Court of India held that public post is not heritable, therefore, the right to compassionate appointment is not a heritable property. In case of compassionate appointment, the applicant should meet all the stipulation of the scheme, including financial needs and other requirements.

13. In the case of **V. Sivamurthy vs State of Andhra Pradesh and Others [(2008) 13 SCC 730]**, the Hon'ble Supreme Court of India held that :

“ 9. The principles relating to compassionate appointments may be summarized thus :

- (a) *Compassionate appointment based only on descent is impermissible. Appointments in public service should be made strictly on the basis of open invitation of applications and comparative merit, having regard to Articles 14 and 16 of the Constitution of India. Though no other mode of appointment is permissible, appointments on compassionate grounds are well recognised exception to the said general rule, carved out in the interest of justice to meet certain contingencies.*
- (c) *Compassionate appointment can neither be claimed, nor be granted, unless the rules governing the service permit such appointments. Such appointments shall be strictly in accordance with the scheme governing such appointments and against existing vacancies.”*

In the instant case the provisions guiding compassionate appointment are laid down in Clause 9.3.2 to 9.5.0 of NCWA – VI. For the purpose of fulfilling such criteria laid down in NCWA, though it is not necessary to find out if such particular case evokes any compassion of the management but the objective criteria laid down in the provision relating to the compassion appointment have to be strictly adhered to.

14. In the case of **Umesh Kumar Nagpal vs State of Haryana [(1994) 4 SCC 138]**, the Hon'ble Supreme Court of India observed that:

“ The compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

The object of appointment of a dependent of a deceased employee, who died in harness is to enable the family of the deceased employee to tide over the sudden financial crisis resulting due to the death of the breadwinner who left the family in penury and without any means of livelihood. Mere death of the employee does not entitle the dependent for compassionate appointment.

15. There are plethora of decisions where the courts have consistently held that compassionate appointment is an exception to the regular appointment based on competitive merit in consonance with Article 14 of the Constitution of India. The general rule is not departed from except where there are compelling circumstances. For the purpose of granting compassionate appointment the Schemes and Rules framed by the establishment have to be followed strictly.

16. In the instant case Jogeswar Turi the father of Mahesh Turi died in harness on 08.07.1998. The case for compassionate appointment of Mahesh Turi was verified by the Screening Committee which submitted its report on 05.10.2001 (Exhibit W-3) holding preliminary inquiry. The dependent son of the workman was referred for his medical examination and the report dated 30.11.2004 has been produced as (Exhibit W-5) which indicates that he was declared medically unfit for Underground Job or Employment as he suffered from mild conductive deafness in both ears and Tympanic Membrane were perforated. The result of medical examination was communicated to the dependent son of the deceased employee. According to the norms of the company a person who is declared unfit for duty by medical board has right to appeal before the competent authority within one month from the date of receipt of IME Report. From the materials on record, it is gathered that the workmen union representing the dependent of deceased employee raised an Industrial Dispute before the Assistant Labour Commissioner (Central), Asansol over denial of employment to the dependent son of Jogeswar Turi. A Memorandum of Settlement was entered into under Section 12(3) of the Industrial Disputes Act, 1947 between the representative of employer and union and it was agreed that the management of Girmint Colliery of ECL would forward the case of Mahesh Turi to the headquarters after receiving fresh application from Mahesh Turi for holding Apex Medical Board challenging the previous Medical Board's report. The Memorandum of Settlement dated 10.10.2012 (Exhibit M-3) reveals that such dispute has come up after seven years from the date of communication of the result of IME Board to Mahesh Turi. There is no explanation on the part of the union representing the dependent job seeker as to why they have remained silent for more than seven years before raising the Industrial Dispute before the Assistant Labour Commissioner (Central), Asansol. On the first occasion the dependent son was found medically unfit for employment in the Mines due to his deafness. After arriving at settlement before the Assistant Labour Commissioner (Central), Asansol the dependent son submitted a fresh application on 23.01.2013 for conducting fresh medical examination at Area level or for sending him to ECL Sanctoria Hospital or Central Hospital, Kalla for audiometry test for deciding his fitness so that he could get employment. From the sequence of events it appears to me that after being disqualified during his first medical examination the dependent son through the workmen's union placed his claim for employment once again after several years from the date of death of his father. There is no iota of evidence to establish that the son of the deceased employee was unable to tide over the crisis resulting due to the death of his father. There is no indication that the son of the deceased employee claiming employment is without any means of livelihood. As the claim for employment is not a vested right which can be exercised at any time in future, I am of the considered view that simply due to death of Jogeswar Turi in harness any right for employment accrued in favour of his son after long lapse of time. The management of the company had provided opportunity to the dependent of the deceased but as he failed to fulfill the conditions laid down in the scheme / rules for employment on compassionate ground his case cannot succeed.

17. In view of my foregoing discussion and the principles laid down by the Hon'ble Supreme Court of India in the above cases, I hold that the claim for compassionate appointment of Mahesh Turi raised in course of this Industrial Dispute cannot be sustained and the same is dismissed on contest.

Hence,

ORDERED

that the claim for compassionate appointment of Mahesh Turi, dependent of ex-employee of Girmint Colliery, ECL is dismissed on contest. An award be drawn up in the light of my above discussion. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer,

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1554.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नागेश्वर सातग्राम कोलियरी का ई.सी.एल.के प्रबंधन के संबंध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 31/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/95/2012-आईआर(सीएम-II)]

मणिकंदन एन, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 31/2012**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **Nageshwar Satgram Colliery of E.C.L.** and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22012/95/2012- IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 31 OF 2012

PARTIES: Achu Munda

Vs.

Management of Nageshwar Satgram Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Goswami, Adv.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 29.08.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/95/2012-IR(CM-II)** dated 01.08.2012 has been pleased to refer the following dispute between the employer, that is the Management of Nageshwar Satgram Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of Nageshwar Satgram Colliery is just and fair, not to providing employment to Sri Achu Munda in place of his father Late Sukra Munda, only on the ground that he is son of 2nd wife, while in all the service record, Achu Munda is son of Late Sukra Munda. To what relief management can provide to Sri Achu Munda? ”

1. On receiving Order **No. L-22012/95/2012-IR(CM-II)** dated 01.08.2012 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 31 of 2012** was registered on 17.08.2012 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Achu Munda the dependant son of Late Sukra Munda represented the workers' union Koyala Mazdoor Congress, filed written statement, wherein it is contended that the union raised an Industrial Dispute before the Assistant Labour Commissioner (Central), Asansol for employment of Achu Munda, the son of Late Sukra Munda, which ended in a failure and the Ministry of Labour and Employment, Government of India referred the scheduled dispute before this Central Government Industrial Tribunal -cum- Labour Court at Asansol for adjudication. The fact of the case, giving rise to the dispute is that Late Sukra Munda was a permanent employee of Nageshwar Satgram Colliery under Satgram Area of Eastern Coalfields Limited (hereinafter referred to as ECL) posted as Surface Trammer, having U.M. No. 314457. Sukra Munda died on 24.09.2007 while he was in service. Achu Munda, son of Late Sukra Munda applied for providing employment to him in place of his father and submitted necessary documents. It is the case of the union that Achu Munda is entitled to get employment according to the provisions of the National Coal Wage Agreement (hereinafter referred to as NCWA). The screening committee at the Colliery and Area Office arranged for medical examination of Achu Munda by the Initial Medical Examination (hereinafter

referred to as IME) Board and forwarded the proposal to ECL headquarters for his employment. the Personnel Manager (EMPL) ECL headquarters subsequently regretted the proposal for employment. it is the case of the petitioner that Late Sukra Munda during his lifetime nominated Achu Munda, his son and the name of Achu Munda was recorded in the Service Excerpt, Form PS-3, Form PS-4 and the management accepted the nomination of Achu Munda as the son of Late Sukra Munda. Achu Munda also received LTC and LLTC benefits along with other family members of Late Sukra Munda. Achu Munda has been described as son of Late Sukra Munda in all records and nowhere it is mentioned that Achu Munda is the son of his second wife. In the Service Excerpt Form the name of Smt. B. Radhi Mundain and Achu Munda were recorded along with the names of other dependents of Late Sukra Munda. Achu Munda was also nominated for payment of Gratuity and CMPF amount of his father. He received medical facilities and other benefits of the company as the son of Late Sukra Munda. The dependant of the workman contended that in various cases the second wife and a son born to the second wife are given benefits of wife and son and even live-in relationship were also accepted by Courts. The NCWA has made no distinction between second wife and first wife. Achu Munda the son of Late Sukra Munda therefore, should be provided with employment in place of his father. The union has prayed for providing employment to Achu Munda in terms with provisions of NCWA and for payment of monetary compensation to the wife of Late Sukra Munda from the date of his death till providing of employment to the dependant son.

3. Notice was issued to the Agent, Nageshwar Satgram Colliery of ECL under registered post which was duly served upon him in the year 2012. Mr. P. K. Das, learned advocate appeared on behalf of management of ECL for the first time on 06.11.2012 and several dates were fixed for submitting written statement by the management. After filing of written statement on behalf of the dependant of workman on 06.02.2013, twenty opportunities were granted to the management but they did not file any written statement. The case was ultimately fixed for ex-parte hearing against ECL on 12.07.2016. Several questions crept up for consideration as to whether Achu Munda is the son of the first wife of Late Sukra Munda or whether Achu Munda was born from the marriage between Late Sukra Munda and Smt. Kayri Munda, the second wife of Late Sukra Munda. Question also arose if Late Sukra Munda contracted his second marriage with Smt. Kayri Munda during subsistence of his first marriage and what decision the management of ECL has taken finally regarding the claim for employment of the dependant son. The response of the Agent, Nageshwar Satgram Colliery under Satgram Area of ECL and their advocate is conspicuously silent without any response to the issue. This type of inaction on the part of a public sector company is beyond contemplation and cannot be appreciated.

4. On 26.09.2022 Mr. P. K. Goswami, learned advocate appeared on behalf of the management of ECL and sought accommodation for hearing of argument. No Vokatnama was filed by him. On 30.11.2022 the union representing Achu Munda prayed for recalling the workman witness for his re-examination the purpose of admitting some documents in evidence as exhibits. The witness was re-examined by union and cross-examined on behalf of ECL. On 30.01.2023 Mr. Sanjib Kumar Ghosh, Manager (Personnel), Satgram Group of Mines, Satgram Area, ECL, the management representative was called upon to look into the matter and submit a report within a fortnight as to why the son of the second wife was denied employment. A report was submitted on 20.03.2023 wherein it is stated that Smt. B. Radhi Mundain the first wife of Late Sukra Munda expired on 21.07.1995 at Central Hospital, Kalla, ECL. Her name was deleted from the records of the company on 19.11.2003 and the name of Smt. Munda Kayri was recorded as the second wife of Late Sukra Munda. Late Sukra Munda expired on 24.09.2007 thereafter Smt. Munda Kayri submitted an application nominating Achu Munda for his employment on compassionate ground as the nominee of the deceased employee. It is further stated in the report that the age of Achu Munda in the Service Record was entered as six years in 1983 and in the LTC declaration it was mentioned as six years in 1986. Therefore, the year of birth of Achu Munda may be calculated as 1977 and 1980 respectively. In the Madhyamik Certificate the date of birth of Achu Munda was recorded as 18.05.1983. The father's name of Achu Munda in the Madhyamik Certificate is recorded as Sukar Munda in place of Late Sukra Munda. Further case of the management of ECL is that at the time of screening for employment Smt. Munda Kayri identified Achu Munda as her son from the marriage with Late Sukra Munda. The name of Smt. Munda Kayri was included in the service record only in the year 2003 as per the declaration of ex-employee. In their report ECL raised a question whether Achu Munda was born from the marriage between Smt. Munda Kayri and Late Sukra Munda, therefore Achu Munda cannot be considered as the biological son of Late Sukra Munda. Further contention is that if there was marital relationship between them before 1995 then such marriage is void marriage during the life time of first wife, Late Smt. B. Radhi Mundain. According to the management of ECL employment could not be granted to Achu Munda as the relationship between the claimant and the deceased employee could not be established beyond doubt.

5. For the purpose of assessing the nature of claim for employment, by Achu Munda it is apposite to refer to the guiding principles laid down by the Hon'ble Supreme Court of India in the case of **Union of India vs V.R. Tripathi [(2019) 14 SCC 646]** wherein it has been observed that:

“ 11. The policy of compassionate appointment is premised on the death of an employee while in harness. The death of an employee is liable to render the family in a position of financial hardship and need. Compassionate appointment is intended to alleviate the hardship that the family of a deceased employee may face upon premature death while in service. Compassionate appointment, in other words, is not founded merely on parentage or descent, for public employment must be consistent with equality of opportunity which Article 16 of the Constitution guarantees.

Hence, before a claim for compassionate appointment is asserted by the family of a deceased employee or is granted by the State, the employer must have rules or a scheme which envisage such appointment. It is in that sense that it is a trite principle of law that there is no right to compassionate appointment. Even where there is a scheme of compassionate appointment, an application for engagement can only be considered in accordance with and subject to fulfilling the conditions of the rules or the scheme.....”

6. In the case of **V. Sivamurthy vs State of Andhra Pradesh and Others [(2008) 13 SCC 730]**, the Hon'ble Supreme Court of India summarised the principles relating to compassionate appointment as follows :

“ (a) Compassionate appointment based only on descent is impermissible. Appointments in public service should be made strictly on the basis of open invitation of applications and comparative merit, having regard to Articles 14 and 16 of the Constitution of India. Though no other mode of appointment is permissible, appointments on compassionate grounds are a well-recognised exception to the said general rule, carved out in the interest of justice to meet certain contingencies.

(c) Compassionate appointment can neither be claimed, nor be granted, unless the rules governing the service permit such appointments. Such appointments shall be strictly in accordance with the scheme governing such appointments and against existing vacancies.....”

In order to consider the claim for compassionate appointment of Achu Munda it needs to be considered whether he has fulfilled the criteria laid down in the Scheme for compassionate appointment. In NCWA-VI, Clause 9.3.2 deals with providing employment to one dependant of the worker who died while in service.

Clause 9.3.3 of NCWA-VI lays down that :

“ The dependant for this purpose means the wife / husband as the case may be, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, brother, widowed daughter / widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependent on the earnings of the deceased may be considered to be the dependant of the deceased.”

In clause 9.3.4 of NCWA-VI it is further stated that :

“ The dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years provided that the age limit in case of employment of female spouse would be 45 years as given in Clause 9.5.0. In so far as male spouse is concerned, there would be no age limit regarding provision of employment.”

7. From the above mentioned decisions of the Hon'ble Supreme Court of India it may be derived that the compassionate appointment in public sector undertaking is an exception to the rule that the appointment in public service should be made strictly on the basis of open invitation of applications and comparative merit having regard to the certain provisions of Article 14 and 16 of the Constitution of India.

8. Bearing the above principles in mind it would now be appropriate to deal with different aspect of this case. In the written statement filed by the General Secretary of Koyala Mazdoor Congress, Asansol on behalf of Achu Munda, it has been claimed that Achu Munda is the son of Late Sukra Munda, the deceased employee and he is entitled to get employment and other benefits due to death of his father. There is however material suppression of facts as to who gave birth to the claimant, whether by Late Smt. B. Radhi Mundain, the first wife or Smt. Kayri Munda, the second wife. It is a settled principle of law that under sub-section (1) of Section 16 of Hindu Marriage Act, 1955 it is clearly enunciated that the children who are born from a marriage which is null and void are legitimate. Therefore, a child born from a marriage which is null and void is protected by the law and is treated as legitimate child under Section 16 (1) of the Hindu Marriage Act, 1955.

9. While adducing evidence, Achu Munda, workman witness – 1 in his affidavit-in-chief stated that his name is included in the Service Excerpt Form, PS-3 and PS-4 Form and all other records of the company as son and there is no dispute regarding the genuineness of his relationship with Late Sukra Munda. He applied for providing employment in place of his father and he has no source of income to maintain himself and his family. The witness has produced a copy of Death Registration Certificate of Late Sukra Munda as Exhibit W-1. A copy of Death Certificate issued by Central Hospital Kalla as Exhibit W-2. A copy of Form PS-3 as Exhibit W-3, A copy of Form PS-4 as Exhibit W-4. A Death Registration Certificate of Smt. B. Radhi Mundain as Exhibit W-5. A copy of Office Order dated 18.11.2003 whereby the name of Smt. B. Radhi Mundain, the first wife who died on 21.07.1995 was deleted and the name of Smt. Munda Kayri was recorded as second wife is marked as Exhibit W-6. A copy of the No Objection Certificate executed by the other legal heirs of Late Sukra Munda in favour of Achu Munda as Exhibit W-7. A copy of Voter ID Card as Exhibit W-8. A copy of Aadhaar Card as Exhibit W-9. A copy of the Madhyamik Pariksha Certificate as Exhibit W-10.

No evidence has been adduced by the management of ECL as no written statement was filed by them and they have no specific case in response to the case of Achu Munda.

10. Though the management has not come forward to challenge the claim of the petitioner for compassionate appointment, the merit of this case has to be decided on the available material and from the trend of cross-examination by the management of ECL. The claimant / petitioner cannot succeed on the basis of the weakness of the management but it can only succeed on the basis of his own strength which is to be decided independently. In course of cross-examination of Achu Munda, no suggestion was put to him that he is not the biological son of Late Sukra Munda or that he is not eligible for compassionate appointment on the death of Late Sukra Munda.

11. It is gathered from Form PS-3 (Exhibit W-3) produced by Achu Munda that his age is recorded as sixteen years on 29.05.1998. Therefore, his year of birth is 1982. In the Voter ID Card (Exhibit W-8) the age of Achu Munda is recorded as eighteen years as on 01.01.2001. Therefore, his year of birth is 1983. In the Aadhaar Card (Exhibit W-9) and in the Madhyamik Pariksha Certificate (Exhibit W-10) his date of birth is recorded as 11.05.1983. In his statement before the Screening Committee of ECL Achu Munda disclosed that his age as twenty-five years. It is clear from the date of birth appearing in the Exhibits W-3, W-8, W-9, and W-10 that the year of birth of Achu Munda was 1983 and he was born prior to the death of Smt. B. Radhi Mundain on 21.07.1995. There is no evidence on record to suggest that Late Sukra Munda had married Smt. Kayri Munda during the lifetime of Late Smt. B. Radhi Mundain before 1983. There is no material to suggest that Achu Munda was born from the marriage of Late Sukra Munda and Smt. Kayri Munda. Therefore, I am unable to hold that Achu Munda is the biological son of Late Sukra Munda. It is true that a child born out of second marriage is considered a legitimate child under Section 16 (1) of Hindu Marriage Act, 1955 and it would be impermissible to exclude them from being considered for compassionate appointment on the principle that children do not choose their parents. However, there should be some material to suggest that a child was born in course of the second marriage. Unless such proof is available, the claim of the petitioner for compassionate appointment would be relegated. The claimant should prove that he is the biological son born in course of the marriage.

12. The Office Order dated 18.11.2003 issued by the Manager Mithapur (R) Colliery (Exhibit W-6) indicates that the competent authority had approved to delete the name of Smt. B. Radhi Mundain, the first wife who expired on 21.07.1998 and include the name of Smt. Munda Kayri as the second wife in the service file of Late Sukra Munda, Truck Khalasi of Nageshwar Satgram Colliery under Satgram Area of ECL. There is no evidence before this Tribunal as to when the second marriage between Late Sukra Munda and Smt. Kayri Munda took place. Even if the second marriage took place during the lifetime of the first wife, the son born from the second marriage would be treated as legitimate and would be entitled to claim employment in the capacity of a son, as provided in Clause 9.3.3 of NCWA-VI. Along with report filed on 20.03.2023 the Manager (Personnel) of Satgram Group of Mines filed a copy of a document relating to the examination of Achu Munda by the Screening Committee of the company. From his statement before the screening committee, it appears that his mother is Smt. Kayri Munda, the second wife of Late Sukra Munda and he has born from their wedlock. He also stated that he was already married and his age was twenty-five years. Unfortunately, no date is appearing on the face of the document on which the statement is recorded. Taking the statement as it is, I find that Achu Munda was born to Smt. Kayri Munda prior to her marriage with Late Sukra Munda. Therefore, there is dearth of evidence to establish that Achu Munda is the biological son of Late Sukra Munda. In a case for compassionate appointment the claimant must strictly fulfill the requisites laid down in the Scheme for providing such type of appointment.

13. In my considered view Achu Munda and the representative of union has consciously suppressed the material facts and failed to prove that he is biological son of the deceased employee. From the contents of his statement before the Screening Committee, which bears the signature of Achu Munda, he stated that he is already married. Such fact of marriage indicates that Achu Munda has sufficient means to take care of his wife and family and therefore, the claimant is not in a penurious condition. Sixteen years have passed since the death of Late Sukra Munda and Achu Munda has been able to tide over the situation. He was already an adult member of his family at the time of death of Late Sukra Munda. Therefore, in my considered opinion this is not an appropriate case for granting compassionate appointment to the claimant. Smt. Kayri Munda, the widow of Late Sukra Munda is however entitled to monetary compensation from the date of death of Sukra Munda till she attained her age of sixty years in terms of the Clause 9.5.0 (iv) of NCWA-VI applicable to her. The Industrial Dispute is therefore allowed in part.

Hence,

ORDERED

that the claim for compassionate appointment of Achu Munda on the death of Sukra Munda is dismissed on contest. Smt. Kayri Munda, wife of Late Sukra Munda is entitled to monetary compensation from the management of ECL from the date of death of Sukra Munda in terms with the provisions of Clause 9.5.0 (iv) of NCWA-VI till she is sixty years of age. An award be drawn up in the light of my above decision. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2023

का.आ. 1555.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चिनाकुरी खदान नंबर II का ई.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 09/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/119/2019-आईआर(सीएम-II)]

मणिकंदन एन, उप निदेशक

New Delhi, the 20th September, 2023

S.O. 1555.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 09/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **Chinakuri Mine No. II of E.C.L.** and their workmen, received by the Central Government on **13/09/2023**

[No. L-22012/119/2019- IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL**

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 09 OF 2020**PARTIES:** Kantu Hembram**Vs.**

Management of Chinakuri Mine No. II of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. R. K. Tripathi, General Secretary, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, Adv.

INDUSTRY: Coal.**STATE:** West Bengal.**Dated:** 28.08.2023**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/119/2019-IR(CM-II)** dated 04.02.2020 has been pleased to refer the following dispute between the employer, that is the Management of Chinakuri Mine No. II under Sodepur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the Management of M/s. Eastern Coalfields Ltd. in relation to its Chinakuri Mine No. II under Sodepur Area in imposing a punishment of dismissal on Shri Kantu Hembram, Ex-U.G. Loader of Chinakuri Mine No. II w.e.f. 30.10.2016 (30.10.1996) is just and legal? If not, to what relief the workman is entitled to? ”

1. On receiving Order **No. L-22012/119/2019-IR(CM-II)** dated 04.02.2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 09 of 2020** was registered on

24.02.2020 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the management of Eastern Coalfields Limited has appeared accompanying Mr. Sumanta Bhattacharya, the Management witness. Instant case relates to a dispute raised over dismissal of Kantu Hembram, Ex-Underground Loader of Chinakuri Mine No. II w.e.f. 30.10.1996. After issuance of Notice, written statement has been submitted by the management along with affidavit of the management witness. Mr. R. K. Tripathi, union representative sought several adjournments and finally did not file any written statement for the aggrieved workman.

3. The case is fixed up today for ex-parte hearing of Eastern Coalfields Limited. Mr. Tripathi filed an application stating that the concerned employee is not interested to continue with the case and the same may be dropped. Copy of application is served upon Mr. Das, learned advocate for the Eastern Coalfields Limited. Having considered the dispute involved, the Schedule and the circumstances of the case, I hold that there is no dispute between the parties any more for adjudication and the Reference case is disposed of in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer